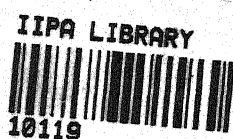


SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'

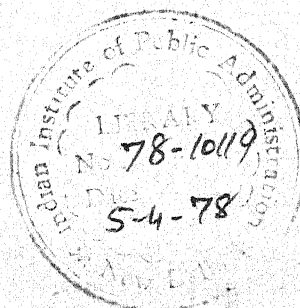
(MARCH 20 - 21, 1978)



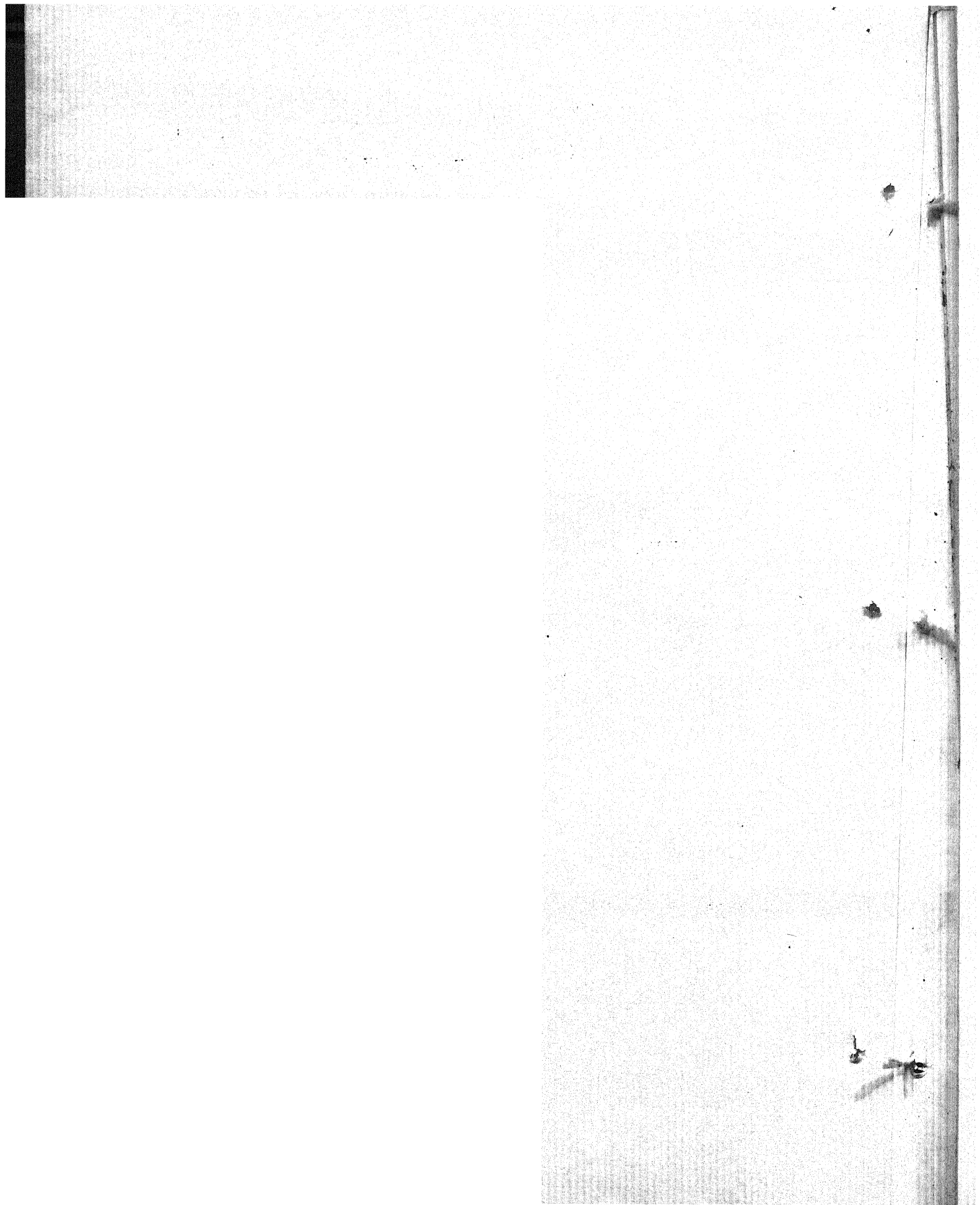
SOME KEY ISSUES IN CONTROLLING URBAN
BUILDING ACTIVITIES

by

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Some Key Issues in Controlling Urban Building Activities.

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Significance of Police Power

The 'Police Powers', exercised by the State over the citizen's right to property, can be traced back to the nuisance doctrine and was originally limited to the goals of public safety, public health, law and order. In recent times, the scope of the police powers has widened considerably so as to include aesthetic as well as spiritual values. In *Berman v. Parker**, Judge Douglas observed "the concept of the public welfare is broad and inclusive the values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled". The primary purpose of development control in human settlements has been traditionally taken to be to promote the health, safety, morale and general welfare of the community.

For centuries together, human settlement have grown organically subject to control by the community, originally exercised without any statutory backing but later according to law. A city is often not the product of a pre-ordained plan but reflects the net result of multitudinous decisions taken

* Supreme Court of United States. 348 US.26 (1954).

in respect of individual cities by several citizens, architects, engineers, firms and public authorities at different point of time.

The significance of development control in our country lies in the fact, that during this century, the growth of towns & cities has been influenced more by the enforcement of municipal acts and building by laws and, in some cases, due to the activities of the improvement trusts rather than by implementation of Master Plans, which are, relatively speaking, a recent phenomena after 1960. A Town Planning Act comes into operation only when statutory planning schemes are finalised and got sanctioned; until then, reliance has to be on municipal act, building by laws and zoning laws for regulating urban growth.

Major Problems of Development Control in India

The development control in our urban areas, however, presents a dismal scene of blackness in enforcement, flagrant violations of rules, rampant corruption and political interference with the enforcement machinery. In fact, the development control has often earned a bad reputation for urban planning in our country.

An attempt is made below to sum up the major problems in controlling urban development activities in our country:

1. Existence of multifarious and variegated legal tools relating to development control having overlapping and, at times, inconsistent provisions;
2. The standards contained in the related rules and by-laws are often obsolete and out-dated.

(3) The standards contained in the rules are often based on ideal situation and do not often cater to the needs of the lowest income group, which constitute the bulk majority in urban areas.

(4) The provisions in some of the by-laws, relating to development control, have no relevance to pattern of indigeneous growth in older parts of the city where a conglomeration of land uses exists.

(5) Existence of certain gaps in the contents of building rules (e.g. non-stipulation of minimum size of plots).

(6) At times, the by-laws lead to monotonous and unimaginative developments.

(7) Flagrant violations of rules are matter of frequent occurrence.

(8) There is considerable slackness in enforcement of the rules; unauthorised constructions or those in violation of rules often occur with the connivance of the inspection staff.

(9) Prevalence of rampant corruption among all categories all categories of enforcement staff.

(10) Protracted delays in disposal of building applications.

(11) Non-detection of unauthorised constructions in the initial stage itself (- at times, this is done deliberately for obvious reasons) and lack of prompt action to nip them in the bud; court injunctions aggravate the problem.

(12) Interference by the elected representatives in the enforcement of rules by the enforcement staff and regularisation of unauthorised constructions and colonies by the deliberative wing from time to time.

(13) The manner of action pursued by the enforcement machinery in dealing with unauthorised constructions and violations of rules has been generally one of slackness, inertia and delays with occasional spurts of drastic action.

(14) Ineffectiveness of action, taken by way of prosecution in a civil court or demolition or collection of compounding fee to act as a deterrent to unauthorised constructions and violations of rules.

(15) Proliferation of slums and squatter colonies on public as well as private lands, - at times, on lands designated for public purposes.

(16) No consideration is often given to the aesthetic aspects or visual quality of the development permitted due to absence of elevation controls and three dimensional models.

(17) Absence, in general, of conservation measures for places or buildings of special architectural or historical value and also of restrictive measures on developments in the vicinity of historic monuments or buildings of special value.

(18) Utter inability to eliminate or shift non-conforming industries or to mitigate their environmental nuisance.

(19) Ineffectiveness of periphery control measures (if any) to control developments on lands lying outside municipal limits.

(20) Rules circuimvented by using accommodation later for purposes other than those shown in the approved plans.

(21) Camouflaging of unauthorised new constructions so as to make them look like old structures.

(22) Existence, often, of dual control by the local body as well as the development authority or the improvement trust, in areas falling under notified schemes, leading to more harassment and corruption as far as the citizen is concerned.

(23) Absence in many cities of a decentralised structure of enforcement machinery through creation of zonal offices with delegated powers so as to bring the system closer to the citizen.

(24) Inspection staff in local bodies, which constitute the enforcement machinery, often are lowly paid and have low technical qualifications, thus lacking in adequate appreciation of goals of development control and a sense of purpose.

Proliferation of Laws relating to Development Control

The following list of statutory enactments dealing with development control in our urban areas will amply demonstrate the first problem, stated earlier:-

- (1) Municipal Act
- (2) Town Planning Act.
- (3) Public Health Act
- (4) Places of Public Resort Act
- (5) Building Bylaws
- (6) Subdivisions Regulations.
- (7) Zoning Bylaws.

8. Master Plan (carries the force of a statute since sanctioned under an act).
9. Town Planning Scheme and Scheme Bylaws or a Zonal Development Plan and Regulations (carry the force of a statute).
10. Urban Land (Ceiling and Regulation) Act 1976.
(Imposes restrictions on plot size, plinth area, etc.)
11. Urban Development Authority or Improvement Trust Act.
12. Housing Code (Exists in a few metropolitan areas).
13. Periphery control Act (e.g. Town Periphery Control Act, U.P. Regulation of Building Operation Act and Punjab Scheduled Roads Act).
14. Restriction of Ribbon Development Act.
15. Fire Safety Regulations.
16. Urban Art Commission Act (Exists in a few cities).
17. Tree Preservation Act (Exists in a few cities).

Faced with such an array of enactments, the intending developer and the practising architect or engineer is baffled to know whether the proposed development would contravene any rule or bylaws and hence has to be at the mercy of the inspection staff. Even the planning officials and the members of the elected body are not fully aware of all the powers they possess for regulating urban development and some of the statutory provisions (such as, for instance, relating to prescribing street elevations or prohibiting huts and godowns in specified areas) remain unutilised.

Such a situation makes development control a time-consuming, cumbersome and inefficient leading to corruption and

inordinate delays. This situation has arisen due to the fact that, apart from a indigenous practices, we have inherited a colonial system of development control (e.g. municipal acts, building bylaws and the town planning act were largely based on the British statutes). After the advent of the Delhi Master Plan (prepared with the assistance of Ford Foundation), the concept of zoning was imported into our urban scene without any critical evaluation of its overlapping provisions with building rules (e.g. with respect to building height, set backs, coverage etc.) or of the modification needed to the concept to suit our situation (e.g. mixed land uses).

However certain other American practices such as the housing code and performance standards for industries as a part of the zoning law are yet to find wide acceptance in our country.

Development Control Rules should be simple, straightforward and concise. The present situation in our country hardly satisfies this criterion. There is need to codify, amalgamate some of the enactments and eliminate overlapping and inconsistent provisions. The Bombay Development Control Rules, which combines within a single enactment the land use proposals of the Master Plan, zoning laws, the building bylaws and subdivision regulations, deserves to be emulated by other local bodies in the country.

Some of the major issues in development control relating to the theme selected for the Seminar are now briefly discussed.

Major Issues and Suggestions Land Use in Older Parts of the City.

Indian cities normally have two distinct parts viz. the older indigineous part and the 'Anglicised' planned part. Often the railway line or the trunk road separates the two areas, which are entirely different in physical pattern & character.

The older part of the city, which in some cases is or was surrounded by a wall, is the product of organic growth over several centuries in the pre-industrial and pre-car era and is distinctively in the Indian urban tradition. The 'chowk' or the core of the older part becomes the downtown or the old city centre for the entire city. This old city presents a picture of high congestion, narrow & informal street pattern and a conglomeration of uses. The buildings are normally of 2 to 3 storeys height and commercial activity, including wholesale trade, thrives alongside major streets and, at times, even the lanes. There is remarkable regimentation of trades along some streets, difficult to attain even with enforcement of zoning laws. There is horizontal and

vertical mixing of uses, primarily between residential, commercial & industrial uses. e.g. commerce on ground floor and residence in the rear or on upper floors and industry at times in the rear. Often, traditional industry of house-hold type flourishes in the older parts of the city. In fact, the older parts of the city bustles with life & vitality day & night due to such conglomeration of uses and this is sadly lacking in more recent developments.

A recent survey conducted by the postgraduate students of the School of Planning & Architecture, New Delhi, (See annexure for details) of Panipat has revealed the following interesting facts on the structure of its older parts:-

1. Residential use constitutes as much as 83.44% of the older city area as against 40.36% in the entire city
2. Commercial & industrial uses occupy 6.12% and 2.3% respectively in older city as against 4.22% and 17.68 in the entire city.
3. In the older city, 17.6% of the working force is engaged in household industry and only 9% is engaged in the organised industry.
4. As much as 36.3% of the working force is engaged in trade & commerce as against 26.8% in rest of the city.

5. As far as income levels are concerned, the residents of the older parts are badly placed in comparison with those in rest of the city. 48.5% of workers in older part earn less than Rs. 300 $\frac{1}{4}$ - p.m. as against 33% in rest of the city.

6. The older parts lack in parks and playgrounds though better off with respect of availability of educational facilities as compared with rest of the city.

7. Structures often have a central courtyard, used for outdoor living or handloom industry. Commercial uses are normally on front side (ground floor) residence on upper floors and handloom industry on the rear side.

In the above circumstances, it would be absurd to think in terms of rigid segregation of uses for older parts of cities as is normally contemplated under the zoning laws. The ideal standards pertaining to coverage, height of building & room dimensions as incorporated in such laws have little relevance to such areas.

The solution to problems of older parts of the city lie in:-

1. introducing traffic management measures by way of one-streets, creation of pedestrian precincts, etc.
2. decentralisation of activities like wholesale trade in grains vegetables, and iron hardware from the old city to suburban areas.
3. Discouragement of further concentration of population by imposing restrictions on coverage, height of structures; otherwise, Master Plan proposals for reduction of densities in older parts remain on paper only.
4. Evolving land use controls which provide for mixed land use patterns rather than rigid segregation of uses.

Squatting on Public Lands

Due to a rapid pace of urbanisation, there is a mass exodus of persons from rural areas into urban areas without any skill or steady employment. Besides, about 70 to 80% of urban population have an income of less than Rs.250 p.m. Hence, the rural migrants and the urban poor that cannot afford to rent accommodation or buy a plot are left with no alternative but to squat on public or private lands. The land disposal policy through auction at high prices has further aggravated the problem in several cities.

For instance, Delhi Development Authority had made available to the public till 1976, 14,094 developed plots. Of these only 12% were given to the low income group. Its policy of auction of sites to high income groups at exorbitant prices has led to a tremendous inflation of land prices and rents. Hence, it is not surprising that there were about 7 to 8 lakhs of people squatting in Delhi in 1975*.

Demolition of squatter settlements presents a formidable task in a democratic set-up in view of political pressures & interferences. In Delhi, the removal & rehabilitation in about 7 lakhs of slum dwellers and squatters could be rehabilitated in outlying areas in recent period since it was done during Emergency. But a lesson has been learnt that in rehabilitating squatters, the need for a proper home-work

*Howland Many. "Delhi's large - Scale Land Acquisition & Development Policy" urban & Rural Planning Thought Journal Jan'75.

relationship should not be lost sight of. The problem should be handled with humanitarian considerations and the dictum "prevention is better than cure" should not be lost sight of.

Quite often, environmental improvement might be an appropriate strategy for such squatter settlements. If the Master Plan had shown such lands for public purposes or non-residential use, the Plan should be reviewed & suitable modifications done unless strong reasons exist for retaining the proposals.

There is need for an adequate supply of developed 'sites & services' at a subsidised cost or Janata - type of housing on long-hire purchase terms to cater to the needs of lower income groups.

The standards in building rules, relating to room size, provision of separate kitchen or bathroom or even latrine, have no relevance to the squatter settlements. The rules should, provides for minimum restrictions (such as coverage) for areas, designated for housing of the weaker sections of the community.

Control of Building Bulk & Appearance

Building bulk is often controlled through restrictions imposed by the rules on coverage, building height, set backs, and floor area ratio or plot ratio. There is some confusion due to use of different concepts like plot ratio, floor space index and floor area ratio in different cities of our country. In some of these concepts, half the width of the streets is added to the site area of the plot. There is need for a critical evaluation of each of these concepts so as to find out which one suits our urban situation.

Control of building bulk by above measures at times leads to a monotonous type of development (e.g. a tower block on a podium is the resultant form often in central areas). Hence regulation of developments in a central area should be based on a three-dimensional model for the proposed development of the area. The floor areas in the podium shown for car parking & storage in the approved plans for tower blocks is later misused for office & residential purposes as has happened on an appreciable scale in Cornaught Place Area.

In almost all our urban areas, the appearance of buildings is not controlled at all as street elevations have not been prescribed and the colour & texture of building materials, to be used in proposed construction, is never verified.

Urban Arts Commission which is expected to be the custodian of urban aesthetics, becomes in actual practice, often another hurdle to be overcome by the developer. Conflicting opinions between the Commission on one hand and the local body or the city development authority are not infrequent as the experience in Delhi shows. The Commission should be consulted with regards to developments proposed in select areas of special value or in the vicinity of monuments.

Enforcement Machinery

A major issue for consideration is whether it is desirable that local bodies should continue to be responsible for development control or whether it is preferable to entrust this work to some other agency like the urban development authority or a government department.

The protagonists of the latter approach would argue that local bodies are not suitable agencies for development control since they are seething with political interferences, corruption & protracted delays. They also plead that the local bodies should take decisions on policies & by-laws but leave the day-to-day task of enforcement to some other agency.

On the other hand, the supporters of the first approach would argue that if you take away urban planning & development, water-supply & drainage and development control from the local bodies and entrust these tasks to other special purpose agencies, then what would be left for these democratic bodies to perform? Collection of taxes, street-lighting and sanitation. Entrusting development control to urban development authorities may also result in their becoming too much pre-occupied with development control work, which gives them influence & pecuniary benefits, and less attention would be devoted to urban planning & development.

2. The inspection staff of local bodies are lowly paid & have low technical qualifications. The structure & grades of pay for the enforcement staff should be revised & upgraded so as to attract better personnel to these posts. Special training programmes on

rudimentary principles of urban planning and goals of development control should be organised for the benefit of these personnel.

3. In most of our cities, enforcement staff works under the supervision of the municipal engineer and, in a few cities, under the city architect. In local bodies of South Indian States, there is a long tradition of appointing town planning officers of appropriate grades of pay depending upon the grade of the municipality. It is desirable that the local bodies in the rest of the country and particularly those for large cities should appoint a town planning officer who could be entrusted with the development control so that planning objectives are not lost sight of in this work. Or, in the alternative, guidance must be provided by town planning official located at every district headquarters.

4. Dual control by local body as well as urban development authority in notified scheme areas leads to more harassment, corruption and delays as far as the citizen is concerned. There is no reason why after a scheme & its by-laws are finalised, the enforcement of the same could be left to the local body.

5. Prosecutions in cases of unauthorised constructions are not effective as fines imposed are nominal. The statute must provide for minimum penalty in addition to the maximum. There should also be scope for summary trial & disposal of such cases.

6. In larger cities, enforcement machinery should be decentralised by delegation of powers to zonal offices of the local

body so that the same may be more easily accessible to the citizen.

The need for devising an enforcement machinery which can be more effective, free from corruption and efficient than the present one in our local bodies can never be over-stressed.

ANNEXURE

Socio-Economic and Land Use Structure of Older Parts of Panipat Town*

PANIPAT, a historic town in HARYANA State, is situated 89 Km. north of Delhi on the G.T. Road. In 1971 the town had a population of about 88,000 people and was classified as an "industrial-cum-commercial town.

Rich agricultural land in the surrounding region find market in PANIPAT town resulting in 6 grain and vegetable mandis. PANIPAT is well-known for its handloom products which are exported to a number of countries; woollen blankets industry occupies a prominent place in the economic structure of the town.

As per the Socio-Economic Survey, about 95.3 per cent of the households in the old town are Hindus 74 per cent of population of the old town is migrant, majority of them being migrants due to Partition in the 1947.. The houses in the old town, constructed by the Muslims before the Partition though completely renovated subsequently by the Hindu occupants, present the old typical Muslim styles.

*

This Note is based on the socio-economic survey conducted by the postgraduate students in Town & Country Planning of School of Planning & Architecture, New Delhi in November 1977.

As per the survey, the old town recorded the higher sex ratio of 892 females per 1000 males as against 858 females per 1000 males recorded in the rest of the city. (The state average for urban areas as per 1971 census is 853 females per 1000 males.)

The old town recorded about 9 per cent workers in organised industries namely manufacturing-processing, etc. whereas about 17.6 workers were recorded in household handloom industry. The corresponding figures of the industrial workers in manufacturing - processing and household-handloom industries in the rest of the city are 16.8 and 9.2 per cent respectively..

Further, the old town had about 36.3 per cent workers in 'trade & commerce' and only about 26.8 per cent in service sector. In contrast, the rest of the city has only 26.8 per cent workers in trade & commerce and about 43.8 in service sector.

These figures are of great interest & bring out the typical character of the Indian towns having concentration of the trade-and commerce in the downtown or old city centre or chow through lacking in infra-structural facilities and accessibility.

Another important observation of the survey is that a large percentage (50.5) of workers in the old

town are self-employed and only about 38.5 per cent are employees. As against this, in the rest of the city, only 40.5 per cent are self-employed and 53.2 per cent are employees. The percentage of workers in the role of employer is quite small (only about 6 per cent). This also indicates the dominant household handloom industry in the old town.

The survey indicates that the population of the rest of the city is, however, better off as compared to the population of old city with regard to income levels. The income of about only 4 per cent households exceeds Rs.1000/- per month in the old city whereas the rest of the city has 13 per cent workers with incomes exceeding Rs.1000/- per month. Further, about 48.5 per cent workers in the old city have incomes less than Rs.300/- per month whereas the rest of the city has only 33.0 per cent workers having incomes less than Rs.300/- per month.

Land Use Pattern

The old part of PANIPAT town situated on a high mound has been rebuilt on debris of centuries. The urban form is typical of other Indian old cities. Grown organically on a pedestrian scale, this part of the town has narrow, winding streets, inaccessible to modern modes of traffic. Even in the natural process of development a hierarchy of road pattern is evident. The most prominent

is the Insaar Bazaar with 30' right of way which forms the spine of the old town and the main commercial street. The street pattern emerges as a series of successive rings emanating from the oldest part of the town-the Fort-following the natural slope of the ground and tending to link up with the regional roads. A thinning of the intensity of commercial activity is evidenced reducing from the main roads outwards. Notes of commercial activity form at intersection of major roads.

While the commercial activity is maximum along the main roads, the household handloom industry is evenly scattered over the entire old town reflecting the principal activity and also the balance between the work-living relationship. Lack of any open spaces however tilts the work-living-recreational relationship. Areas of organised open spaces are lacking but such nodal points which are created at the "Chowks" also serve as important social meeting places. The courtyard serves as open spaces at the dwelling level.

The mixed land use result in intensity of activity and the area is alive and bustling even at late hours.

As the figures below indicate, public facilities have become available as and when the need arose and got located in residential areas without having premises designed for them resulting in less percentage of areas under public facilities. Residential areas occupies the largest percentage; twice as much as in the entire town. The densities obtained are between 200-250 p.p.a.; commerce occupies the next largest percentage and is more than the average for Indian towns. Thus residential and commerce uses leave hardly any area for other land uses making them insufficient.

Land Use	PANIPAT (old town)		PANIPAT (entire town) 122 Indian Town*	
	area in acre	% of total area of old town	% of total Dev. area	% of Dev. area
Residential	252	83.44	40.36	47.90
Commercial	18.5	6.12	4.22	3.20
i) Predomine.tly commercial area with residential mixed use	10.0			
ii) Commercial (not mixed with any land use)	4.5			
iii) Predominently residential area with commercial activity	4.0			
Industry (mixed use with residences in Panipat old town)	7.0	2.3	17.68	6.80
Public/Semi Public Parks/Playgrounds	10.0	3.3	6.79	14.5
Roads	7.25	0.4	12.6	6.23
Vacant	8.0	2.6	15.10	13.60
	5.0	1.6	13.25	7.80

Source:- 1. Field Survey Panipat by students 1st year
T.C.P. School Planning and Architecture
New Delhi Nov. 77

2. Kulshreshtra S.K. "Urban and Rural
Planning thought" Vol.11 No.4 Oct. 68.

Mixed Land Use:-

While the broad land use pattern has been discussed earlier it would be worthwhile to elaborate the process of intermixing. While the prevalent thinking advocates segregation of land use, a closer look at the old town reveals the advantages of mixed land use. The intermixing of residential and commercial activity typical of any old town is predominantly along the major streets of the town. The most predominant mix is of residential with commercial use as a matter of convenience. Commercial activity on the ground floor with household handloom industry in the rear and residence on the upper floor is a common feature of the town.

Most of the handloom activities in the town are in the form of reeling, spinning, dyeing etc. carried out by the women in their homes. This aspect has an advantage for the women to utilise their spare time in a productive manner.

In spite of the lack of infrastructure with regard to accessibility, the wholesale trade in the form of mandis and wool markets have prospered.

in the old town. It is worth while to note here that the intermingling of landuses described above have not been problematic in themselves. However, the change in modes of transport and the requirements of these activities have resulted in the **inaccessibility** of the work centres thereby affecting their efficiency. Inadequacy or absence of municipal services had resulted in unhygienic conditions in the old town. Due to the complexity of the problems, it is seen that the planning efforts to date have utterly disregarded the realities of the old town and have made proposals not commensurate with the existing mixed land use pattern and character of the town.

Structural Condition and Maintenance:-

A survey of the building conditions shows that majority of the structures (table (2)) are permanent and double-storeyed,. A part of the old town at the edges is seen to be of temporary construction and poorly maintained due to the occupants being the less privileged days.

Table 2.

Structural condition.	P.C. of Total Area		
	Pucca	Semi Pucca	Kuchha
	83.28	13.98	2.74
Level of Maintenance	Good	Fair	Poor
	38.74	54.35	6.91

About 80 p.c. of the structures are owner-occupied and is reflected in the good maintenance of the structures. Any urban renewal scheme must take cognisance of this fact.

Though the new development is comparatively well-planned not congested, the social facilities, especially educational, are still lacking. In case of old city, there is a high degree of congestion, lack of recreational facilities but is better of in educational facilities. The congestion is partly conducive to bring about social cohesion and also suits climatic requirements. Another typical character of houses is generally a central courtyard with construction surrounding it & generally, the courtyards are used for multi-purpose activities serving the purpose of living room, dining-area, common sitting place, etc. The yard is also used for the household handloom industry.

SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'
(MARCH 20-21, 1978)

MACHINERY FOR DEVELOPMENT CONTROL

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MACHINERY FOR DEVELOPMENT CONTROL

-Deva Raj

Performance of any task requires appropriate organisational capabilities - i.e. an administrative machinery equipped with necessary tools and an effective manpower. So is it with the regulation and control of 'DEVELOPMENT'. What is the administrative organisation our local areas have and where does it fail to regulate development activity. What are the tools and instruments of control - the rules and byelaws, the norms and standards, land-use plans of redevelopment and expansion as well as concept of architectural design and urban form. And last but not the least, the skills and techniques of the field and supervisory staff as also the procedures and lines of accountability. All these need be tailored to the needs of proper development.

Dimensions of Development Activity

The term 'Development' has been defined in clause (d) of section 2 of the Delhi Development Act 1957 as follows:-

"(d) 'development' with its grammatical variations means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in any building or land and includes redevelopment".

The connotation of the term as practised by municipal authorities or as envisaged in the various municipal acts in India, is not as comprehensive and clear. The dominant perception of municipal tasks in this regard has been confined to 'erection', 're-erection' or 'alterations' in buildings. This was natural to the nineteenth century concept of municipal functions with stable fixed jurisdictions, free from the pressures of growth and expansion. But urban growth has been far too rapid particularly since World War II. To the 33 million people living in towns and cities of India in 1931, have since been added about 100 million

people leading to escalating densities and mounting congestion through one or more of the following processes:-

- i) shrinking of floor area per capita;
- ii) shooting up of Floor Area Ratios - from 1 to 3 or 4 if not higher;
- iii) rapid changes in land uses with commercial and industrial activities invading residential lanes, streets and localities;
- iv) chaotic building lines marked by projections and encroachments without an architectural form;
- v) sub-division of existing sites and open spaces large and small often violating all norms of planning; and
- vi) proliferation of growth and un-authorised colonies in the outlying, extended or peripheral areas.

Failure of Enforcement

These were new dimensions of development activity for which the traditional municipal organisation was unprepared legally, technically and administratively - in most of our towns and cities. The Task Force on Planning and Development of Small and Medium Towns and Cities* ascribes the failure of municipal authorities to regulate and control development to the following factors:-

- "(a) the defect in laws and limitation of powers;
- (b) failure to frame bye-laws or to revise them to meet current needs;
- (c) limitations of jurisdiction;
- (d) inappropriate procedures and enforcement machinery; and
- (e) the problems of personnel and technical competence and awareness."

Even if the above limitations were overcome there are factors such as the sheer pressures of growth as also social and political forces that have come in the way of enforcement of rules and bye-laws. For instance Delhi with its high level administrative

*Report - Ministry of Works & Housing, Government of India, page 76.

machinery and technical expertise could not prevent large scale unplanned growth of un-authorised colonies.

Legal Tools

The legal powers to control and regulate development must, therefore, include not only building regulation but also land use, land sub-division and development and architectural and environmental control, as well as effective powers to remove encroachments from public roads, lands and open spaces. They must also cover all territorial areas - rural or urban - that are subject to developmental activity. The sources of these powers are:-

- (i) The enactments of the State legislatures and in some cases the Parliament
- (ii) rules and regulations encoded by the State Governments, and
- (iii) Bye-laws prepared by the local bodies with the approval and sanction of the State Government.

In all cases powers have to be exercised by the local authorities special authorities or agencies that may be specially vested with such powers under the law.

The most important enactments are the municipal acts for urban areas and the panchayatraj legislation for rural local bodies. These laws however, do not provide for regulation and control of all aspects of development as spelt out above. The rural local bodies generally do not have the necessary orientation and perspectives; nor the Panchayat Raj laws make adequate provision even for regulating building activity; so that the rural/peripheral areas lying in the twilight zone of the influence of urbanisation and land development activity attract surreptitious dealings in land speculation and chaotic ribbon development along the roads (and even railway lines) approaching the urban centres.

Local government legislation has therefore, been **supplemented** in many States ^{by} town planning acts or by such special legislation as Improvement Trust laws, Housing and Development Acts, Land use

Control or Regulation of Building Operation acts. The Bombay Town Planning Act 1915, the Madras Town Planning Act, 1926, The Travancore Act of 1932 and the more recent revised Bombay/Maharashtra Acts of 1954 and 1966 as well as the Karnataka and Assam town planning acts sought to vest additional powers in the rural and urban local bodies for preparation and enforcement of plans and schemes of development. The Calcutta Improvement Trust Act, 1911, the U.P. Town Improvement Act 1919 and similar acts for Punjab, Delhi, Nagpur, Howrah, Bangalore etc., the Bihar Town Planning and Improvement Trust Act of 1949, set up special authorities for town expansion and development.

The legislation for development control in the seventies is marked by two distinct trends:-

- a) specific legislation for setting up Development Authorities changed with planning and development (both enforcement and execution) on the pattern of Delhi Development Act, 1957; and
- b) the town planning acts moving from a purely planning legislation to a combined comprehensive act for planning as well as executive agencies on an areawide basis.

The Tamil Nadu Town and Country Planning Act, 1971, while incorporating all the features of comprehensive planning law provides for setting up special local and regional planning authorities. In fact even the Madras Metropolitan Development Authority has been set up within the framework of the Act by inserting a special Section 9A in the Act for the purpose. The Madhya Pradesh Act makes similar provisions, and the Town and Country Planning Organisation of the Government of India has redrafted the Model Town Planning Law to ensure implementation and enforcement mechanism.

Rules and Bye-laws

The State Governments have rule-making powers under the various enactments and sometimes they do formulate rules for building control to be followed by all urban local authorities as has been the case in Kerala and Tamil Nadu. But in most States the formulation of Bye-laws is left to the municipal councils, who may notify the proposals for

public comments and then submit the same for sanction and notification by the State Governments.

But often the small and even medium towns and cities "do not have the necessary competence to draw up their own bye-laws, as is generally required under the municipal laws. A number of states have adopted the practice of formulating draft model bye-laws and left them to be adopted by the municipal authorities. Many of them adopt the bye-laws with some variations while others use the model for reference. The desirability of local formulation of bye-laws stems from the fact that it gives the citizens the opportunity to raise objections, considering local conditions and help to make the municipality and the people aware of the provisions. Generally, however, little interest is taken and the building bye-laws continue to be most extensively violated and are a constant source of confrontation between the citizen and administration".

The task Force on Small and Medium Towns and Cities recommended that the State Governments should make rules for building regulation and control which "should automatically come into force but the local authorities should be asked to publicise them and make them available for local sale. They should also be encouraged to come up with proposals for local variations and the rules may provide that the State government may allow changes to suit local conditions; it is also possible to provide for some relaxations in respect of small towns".*

A landmark in the practice and standardisation of building construction has been the formulation by the Indian Standards Institution of a National Building Code, 1970, which has been receiving the attention of State Governments and a number of States such as Gujarat, Kerala and Uttar Pradesh have re-drafted their building byelaws for adoption and enforcement by local authorities.

The most serious problem however, is the wide gap between

* op.cit. page 76

formulation of comprehensive and technically perfect bye-laws and their actual enforcement which must recognise a number of limitations. A very Senior Officer with long experience of direction and supervision of municipal administration in Tamil Nadu (Shri R. Kulandaivel) in a recent paper on "Building Bye-laws in Urban Areas" observes:-

"As an instrument providing for cutting into individuals freedom of action in terms of building activities the acceptability of the bye-laws depends on their realism, purposefulness and assured beneficiary effect. While the formulation of building byelaws will be highly scientific and similarly the building construction will be needing skills and technological applications, the end product - the building - is to be used by people who may not and need not know any of these finesses. It is essential that building byelaws are made simple and straightforward, responding to local variations and commonly known environmental needs. This does not mean to take away the need for detailed construction codes which ensure structural safety and propriety nor minimise the need for strong legislative supporting provisions for unobstructed enforcement. It is only suggested that this power tool may be converted to be a simple useful and acceptable instrument with all legal sanctity."

It is not unusual that the essentials of the code are submerged and scarcely perceived by the local officials and much less by the citizens, having disastrous consequences on enforcement.

Another limitation of building codes which has the effect of their extensive violation, has been the assumption of rigid standard and norms for all building activity ignoring on the one hand the problems of different levels of human settlements and the varying requirements of different areas and localities in the same city. For instance, "The old central part of the town or city require special consideration. Often it is found that the sites are too small, often less than the minimum prescribed in the bye-laws, so that proposals for re-building cannot be entertained at all. Nor is it possible to apply uniformly the norms in respect of open spaces and set-backs."

The other problems have been some unrealistic standards which it may not be possible to apply to all classes and types of constructions in keeping with the use of local materials and technologies and the socio-economic conditions of different sections of society particularly the weaker groups. The Kerala Rules for instance make separate provision for "huts". It is these compulsions which have compelled the resettlement of about 2 lakh of families in Delhi on plots of 25 sq. yards only although building byelaws usually provide for a minimum plot size of 80 sq. yards.

While there have some building bye-laws in force there has been a general absence of byelaws for regulating (a) building lines; (b) sub-division of sites and (c) Land uses and zoning. All these require more technical manpower than is generally available with municipal authorities. The Task Force Report* observes:-

"Building control in respect of individual building is important but far more damage is done to the city environment by this unregulated and clandestine use of land through sub-division and indiscriminate increase in densities. This has been taking place in spite of the fact that every municipal act makes provision requiring every person intending to make or layout a street, to divide land whether built or partly built into building sites and to sell or lease out such lands, to submit plans and obtain necessary sanction of the municipal authority. Such sanctions are often not obtained. Even when such plans are submitted and sanctions obtained there are two serious omissions:

- (a) there are no sub-division bye-laws laying down norms and standards about road widths, drains, street lighting, reservations for public uses, etc.
- (b) there are no arrangements to ensure that proper development is carried out before the land is allowed to be disposed of".

The Problem of Personnel

The above discussions have amply indicated the type and level of administrative and technical staff that is needed to ensure proper understanding and due enforcement of bye-laws as also the drawing up of zonal plans and schemes within a larger over all development

* Op. cit page 77

to secure proper regulation and control. It has also been pointed out that the State Governments are resorting to the device of special authorities to overcome technical, administrative and jurisdictional problems. Nevertheless the use of such machinery, with all its faults and limitations of multiplicity of authorities, is confined to a handful of the over 3000 towns and cities of this country. Only the major cities and metropolitan areas have been provided with such mechanism. The vast majority of urban areas have to do with such limited technical staff as they can manage.

The work of enforcement has (a) legal as well as (b) technical planning aspects. The task of building regulation is usually entrusted to unqualified generalist inspectors, overseers or sanitary staff, depending upon the manpower availability and past practices and traditions in different municipalities. After technical supervision and guidance is minimal. Sometimes the sanctioning of some plans require reference to officers of the State Town Planning Department, which only adds to the difficulties of the citizens in form of delays and lack of communications in terms of technicalities. In a number of States the posts of Regional Town Planners and in some cases even of District Town Planners have been created to ensure quicker disposal.

It has been seen that wherever such assistance and guidance is readily available and there is cooperation between municipal authorities and the locally stationed town planner, building and sub-division control and planned development steadily improves. This was clearly seen by this writer during a visit to Aurangabad in Maharashtra.

In Andhra Pradesh, there is a Town Planning Officers cadre for municipal authorities under the administrative and technical control of the State Director of Town Planning. There are posts of varying grades to suit the needs of different levels of municipalities. Development control as well as implementation of schemes prepared under the Andhra Pradesh Town Planning (old Madras) Act, 1920 is the responsibility of these officials.

It is also the responsibility of the Directorate of Town Planning to provide necessary training and guidance to these officers.

There is also the general feeling that local bodies with their financial constraints can ill-afford the luxury of employing town planning personnel. This is not always correct. It is more due to the absence of awareness and the lack of realisation of the importance of these measures for a worthwhile aesthetic as well as healthy environment. It is however, possible that higher level qualified town planners cannot be engaged and even if the municipal authority could employ them we shall not have the requisite manpower supply. The practice of having District level Town Planners supervising lower town planning officials in the local bodies can go a long way to meet this need.

Organisational Machinery and the Council

One of the serious problems of effective municipal functioning is the structure of the executive and relations between the elected wing and the permanent officials. In some Acts the power of sanctioning plans or hearing appeals against rejection of plans by the executive officer lies with a Committee of the Council. Often there is a feeling of frustration on the part of technical and administrative officer on the decisions of such Committees but partly the balance lies with unrealistic criteria laid down in building bye-laws.

There is also the interference and pressures from the elected members as well as a number of lobbies against demolition of un-authorized constructions, which may also sometime be ascribed to the vagaries of bye-laws. But the main difficulty is that the elected members in their individual and corporate capacity tend to have a case to case approach rather than adopt a general policy course to undo the mischief of byelaws, if any. It is the right of the Council to determine the norms and standards they want to adopt for their city after due consideration of technical and expert advice, - and to write them into byelaws and regulation by due process of law so that all citizens are treated equally. Once these are laid down the executive should be

made responsible for enforcement. In fact failure to enforce should make them accountable. They should also have full control over subordinate supervisory and field staff which the present diffused pattern of municipal executive powers fails to provide. This calls for a strong unified executive system.

Last and not the least is the problem of legal processes and procedures as also the provision of law about stoppage and demolition of construction or development activity in violation of the respective acts and byelaws. The Acts provide for -

- a) notice to stop construction,
- b) demolition of construction against or without sanctioned plan by the individual,
- c) on failure to act under (b) the right of the municipal authority to demolish at the cost of the developer or builder; and
- d) prosecution in law court which may lead to fine or in the event of continuing default to a recurring daily fine.

Prosecutions take a long time and result in comparatively low fines. What is needed is a system of summary or spot trials and fines. As regards stoppage of construction and demolitions, generally it ends up with some sort of court injunction and a long litigation. The construction work often goes on under the cover of injunctions as the local authority itself generally fails to obtain parallel injunctions against the individual. There is need of drastic powers in the law for demolition of un-authorised development activity.

But apart from effective organisational machinery, the whole issue of development control is lined up with public choices and political will as expressed through political parties and higher level seats of authority. Political parties and the election interludes have been known to promote clandestine development

activity in Delhi and other major cities which are certainly equipped with necessary expertise. No doubt that there are socio-economic forces to reckon with but there is need of minimal consensus on the shape and form of cities that we want. There is also the hard fact which is often ignored that mere negative control and regulation is bound to fail unless it is accompanied by positive measures of land development and disposal as also the provision of mass housing. And the pace of this development has to be fast enough to match the pressures of growth and the demand for building sites at reasonable costs.

Seminar on Control of Urban Building Activities

(March 20 - 21, 1978)

DEVELOPMENT CONTROLS & IMPLEMENTATION MACHINERY

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DEVELOPMENT CONTROLS & IMPLEMENTATION MACHINERY

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Many of the administrative problems that we face today emanate from organisational issues. It is a matter of small wonder, therefore, that most of the management literature relates to such issues. This is because organisations today face challenges due to rapidity of change in their environment. And unless they are quick enough to respond to these changes, they will continue to be sluggish and lathergic. Further unless changes in organisation are made by a well thought out design, changes will occur by default.¹

The classical approach² to a typical procedure oriented machinery emphasises only the efficiency of its structure. It agrees that the problems can be solved by restructuring the work allocations or by authority distribution. In contrast to this classical approach, the management literature of today lays emphasis on behavioural factors. In nutshell it says that effectiveness of any organisation depends on what people make of it. In this paper I shall analyse the machinery for implementing development controls both from the classical and behavioural approach.

But before I do so I would like to visualise the size and scale of urban growth and the challenge that it poses to the implementation machinery entrusted with the job of enforcing these development controls.

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The Urban Challenge - 2001³

The National Census of India 1901 placed India's urban population at 2.53 crore and put it at about 11 per cent of total population. Since then the percentage of urban population has increased to 10.09 crore in 1971 i.e. 20 per cent of total Indian population. The trend of urban population growth has been as follows:-

	<u>Total Urban Population</u> (million)		<u>Percentage to Total</u> <u>Population</u>
1901	- 25.35	-	10.85
1911	- 25.90	-	10.29
1921	- 28.09	-	11.18
1931	- 33.46	-	12.00
1941	- 44.15	-	13.86
1951	- 62.44	-	17.30
1961	- 78.93	-	17.98
1971	- 109.09	-	19.97

Futurologists make us believe that this trend will grow unabated. The projections are that by 2001, urban population will rise to 29 per cent of total population in India and the number of urban settlements will increase from 3121 in 1971 to 5301 in 2001. A comparative picture of rural urban population growth pattern during 1971-2001 is expected to be as follows:⁴

Year(s)	-	<u>Growth of Population</u>		
		Total	Urban	Rural
		(Percentage)		
1981-71	-	21.9	37.6	18.3
1991-81	-	46.2	88.1	36.1
2001-91	-	72.4	155.0	52.3

Source: Registrar General of Census of India, The Population of India, 1974 - World Population year - CICRED Series.

If this scale of urban growth takes place then the area put to non-agricultural uses will increase from 15.6 million hectares in 1967-68 to 22 million hectares in 2001. The details are as follows:

Pattern of Land Utilisation
During 1967-68 and 2001 A.D.⁵
(in million hectares)

	<u>1967-68</u>	<u>2001</u> (Projected)
Culturable Land	195	186
Area not available for cultivation:	48	52
- of which for non-agricultural uses will be	15.6	22
- Barren	32.5	30
Others	36.9	38
<hr/> TOTAL	<hr/> 328	<hr/> 328

Further the maximum impact of urban growth will be felt in the big metro-politan area. Along with national urban population explosion, we shall witness urban population implosion within some metropolitan areas. Cities with population of a million and above will grow in numbers from 9 in 1971 to 17 in 2001. Similarly, Class I cities with population of a lakh and above but less than 10 lakh will go up from 141 in 1971 to 400 in 2001.

Development Controls
and Urban Perspective

The question with which urban planners will have to grapple with will be how to make this massive urban growth orderly so that city environment does not decline in quality. But this will all depend on whether the local governments are

viable enough to guide urban growth and are able to use effectively the development controls at their disposal. Number of development controls for this purpose are at the disposal of local agencies or governments. Under each of the following classifications the detailed measures are taken to control urban development:⁶

i) Local Public Regulatory Instruments

Major Ypes

- Zoning Regulations
- Sub-division Regulations
- Building Codes

Supplementary types

- Fire Code
- Industrial Safety Codes
- Site Design Regulations
- Urb-an Renewal Plans
- Health and Sanitation Codes
- Flood Control Ordinance
- Air Pollution (being enacted)
- Water Pollution etc.

ii) Local Public Guide Instruments

- Master Plan
- Urban Design Plan
- Historical and Architectural Perservation Programmes etc.

Of all this plethora of controls three regulations are of over-riding importance and which determine the quality of urban invironment that we will have. These are:

- Zoning Regulations
- Sub-Division Regulations
- Building Byelaws.

I. Zoning Regulations

Decades of efforts have gone into the development of zoning regulations in their present form. A zoning regulation prescribes how each parcel of land in a community may be put to use. Three important subjects invariably are included in a zonal plan. These are as follows:⁷

Important elements and subjects regulated by Zoning Regulations

Important Element in Zoning

Regulated Subjects

-
- | | | | |
|------|--------------------|---|---|
| i) | USE | - | Residential, business and industry over a period of time, the zoning regulations have been buttressed by various other uses under each of the above broad categories. |
| ii) | Population Density | - | Housing regulations lay down permitted densities i.e. families per acre, etc. |
| iii) | Building Bulk | - | Building height, lot area to be covered by building, floor area ratio, useable open space etc. are laid down in zoning regulations. |
| iv) | Zoning Maps | - | For each district or zone in the city detailed maps are prepared. Within each broad category sub details of residential, business and industrial uses are given. |
-

Implementing Machinery

Adherence to various regulations can be ensured only by having an efficient implementing machinery. Once detailed zoning plans are drawn their implementation is then left to special authorities and in the absence of which to local governments. Zonal plans by definition are self-executing. Any official and

implement a Zonal plan since he has just to refer to a particular Zonal Plan and either reject or approve the activity. There are always provisions for change in the Zonal Plans and because of that the implementing machinery is always under pressure to make changes which suit the vocal, vested or influential sections of society. Complaints from operative builders or developers may arise regarding misinterpretation of zoning regulations or the public authorities may on compassionate grounds allow some variations in uses and even make special exceptions.

II. Sub-Division: Controls

Once control of larger tract development are taken care of by zonal regulations, supplementary rules like sub-division regulations come into play to ensure that the standards of development while sub dividing larger tracts are adhered to.

Sub-Division regulations further ensure that sub-division is as per the Master Plan. Local services like sewer lines, drainage facilities, water lines are in consonance with those already in existence or planned to be created. Further it is also ensured that the sub-division is effective and consistent within itself i.e. width of roads, streets, minimum size of plots etc. Standards of land development are laid down and any sub standard sub-division is penalised. The sub-division regulations also ensure that development costs to be incurred by the local government or local agency are recovered when sub-division takes place.

Implementing Machinery

Administration of sub-division regulations is more complicated and cumbersome and hence requires elaborate administrative machinery to see that each sub-division is as per various statutory requirements. Where development authorities exist, the sub-division plans are to be approved by them, but where these are not created the regulatory powers are vested in the municipal governments.

III. Building Codes

Building codes are defined as series of standards and specifications designed to establish minimum safeguards in the erection and construction of buildings to protect the human beings who live and work in them, from fire and other hazards and to establish regulations to further protect the health and safety of the public.⁸ There are two types of codes i .e. the National Building Code and the Local Building Byelaws. The National Building Code represents the national awareness and goals and is only a recommendatory document for adoption in the local building byelaws. The basic characteristic of local building byelaws is that these are to be adhered mechanically and no discretion is allowed. These regulations are used as police power. The total number of building codes in the country could be as high as the number of local Governments.

Problems connected with implementation of Development Controls

The problems of implementing development controls are multidimensional. National and regional forces which impinge on city growth cannot be dealt with at local level. In the light of this the strategy open to local governments is to do what they can within the given resources or urban limits. Basically then the impediments to implementation of development controls emanate from:

- (a) impediments which are inherent in the development controls
- (b) Impediments which emerge from the implementing machinery
- (a) Impediments which are inherent in the Controls
 - (i) Preponderance of Compartmental Approach

Though we have plethora of development controls, we still pursue each of them as if it has no inter-relationship with other regulations. The following will give an idea about the inter-relationship of discipline, elements regulated and the agencies involved.⁹

Inter-relationship of Standards among building codes zoning and Sub-Division Regulations.8

	Building	Codes Housing	Zoning Regulations	Sub-division Regulations
Principal Participants in developing standards and codes	Engineers Architects	Health Specialists	Planners Engineers	Engineers Planners
Agencies involved	Local Agencies like Municipal Corporation, Development Authorities, Improvement Trusts, etc.			
Subject of Objective:-				
1) Natural Light	Windows, yards light wells habitable room size building separation	Windows and habitable room size	Building height etc.	
2) Access & Egress	Access to sheets, corridors stairs, etc.	Corridors doors exists, etc.	Required access to streets	Required access to streets.
3) Occupancy	Room(dimensions (minimum area per person, etc.))	Room dimension etc. (minimum area per person)	Minimum area per dwelling unit, etc.	
4) Air Pollution (discharge into air)	Vents and venting system	Vents and venting systems, etc.	Land use Location	
5) Fire Safety	Construction and Materials etc.	Maintenance requirement for internal exist ways etc.	Building separations etc.	Access

Each agency vigorously implements its regulation disregarding its impact on the total situation. Even at formulation stage, the inter-relationship is ignored. Each principal participant or expert draws particular regulations and then these are left for execution by different agencies in their own way. Even if formulation of each set of codes or regulations is treated as a specialist's job, enforcement of these regulations which is a legal job, need not be left the same specialist. Engineers or Architects continue to formulate and enforce the building codes. In the absence of proper training in 'enforcement constraints' the specialists in enforcing regulations create more problems than they solve for themselves for the organisation or for the community. Each building agency, each developer refers to multiplicity of codes, and deals with multiplicity of authorities and in the process the level of housing activity suffers. Inconsistencies in theory and implementation of codes become the order of the day.

(ii) Technical viability of the Codes

Number of expert committees have gone into detail and the conclusions that have emerged all point to the fact that the standards (apart from affordability criterion) are even technically prodigal and in a poor country like ours these need to be made more realistic. For example, the fire safety standards, room size requirements, floor space indices, population densities laid down, etc. are all too prodigal and too expensive.

(iii) Intracity and intercity variations in regulations

Variety of bye-laws are in operation in different cities. Even within the same city depending upon the number of local governments, variety of codes create administrative conflicts. Lack of uniformity in standards is a big problem. Practitioners in the field of housing find area-wise variations in standards as a great hinderance in their operations.

(iv) Rigidity of Standards

Number of experts have referred to the deterrent role of rigid and fossilised development standards, in housing design innovations. The National Building Code which represents the national aspirations of low cost housing has yet to be adopted in local building bye-laws. Similarly, the standards applied to the Planning of sites and to the inter-relationship of Placement of building site tend to be particularly inflexible. The typical lot by lot regulations of zoning ordinances have been widely and properly criticised on this basis. The experts agree that a zonal plan should provide for mixed uses; for planned unit development, etc. and in other words must reflect the realities.

(b) Impediments which emerge from the implementing machinery

i) Ineffectiveness of the local Governments to deal with the problems.

While the forces which create, reinforce and accelerate urban growth are predominantly regional or national in character, the solutions to the problems are being found at local level. At local level both the resources, and administrative effectiveness is limited which makes enforcement of development controls inadequate and ineffective. Even within the same metropolitan area the multiplicity of authorities adopt conflicting postures to achieve common goals.

Local government diffusion and its smallness is ineffective in the face of mounting urban problems. The problem is

- a) that most local governments are too small to provide effective solutions to urban explosion and implosion; and
- b) extensive over-lapping layers of government cause further confusion;
- c) popular control over local government is ineffective;
- d) policy leadership is typically weak, if not non-existent;
- e) archaic administrative organisations are totally inadequate to the enforcement demands.

f) the professional services of highly qualified personnel are typically not attracted to local government.

ii) Local Political factors and ineffectiveness of development controls.

Frequent changes in the development controls like zoning, sub-division are made to suit the interests of some groups. In spite of statutory regulations large tracts of land are sub-divided in a sub-standard manner and extensive public and private lands are squatted upon in connivance with the local influential pressure groups.

iii) Poverty and enforcement constraints of development controls.

The abys of poverty in India is so deep that not only majority of the people cannot construct as per codes but cannot even afford to pay the penalties. As a result large scale slum settlements come up. Not long ago, one out of ten people in Delhi lived in houses which were partially or wholly unauthorised. The situation becomes worse as the years roll-by. Most of the public authorities at many places adopt 'demolition' as a solution and have found that their enforcement programme has run into jeopardy. Despite this public agencies during the last one decade may have demolished more houses than they have constructed.

iv) Practices and Procedures for Enforcement

Enforcement of development controls is in the hands of particular specialists who lack experience in administrative work of what is purely a legal exercise. Frequently, the cases are taken to the courts by the affected parties and years elapse before even partial enforcement is adhered to. Even more serious are the practical problems encountered in enforcing regulations than the legal hurdles. The land use regulations decide about the use of land into industrial, commercial or residential, "too much too soon". The property owners find the official land use arbitrary and unrelated to realities and develop the land or encourage sales they may like and thus defeat the very tenets of the official plan. Secondly, zoning regulation enforcement authorities though make the zonal plans but have little control on the desired type and timing of development. There are innumerable instances where in the absence of such controls the zoning regulations have been continuously revised in India and many third world countries.

v) Lack of proper State of Central Government Support to Local enforcement

Since enforcement of development controls is basically a police function, local governments, it is seen get

do not get adequate support from higher Governments.

vi) Fiscal approach to land use regulations

Most local authorities or governments play the game of 'fiscal zoning' i.e. permitting changes in the land uses to allow high taxation potential activities like high income group apartments, commercial, industrial etc. at the cost of low rise high density low income settlements. This fiscal approach has put the under privileged sections of society in most disadvantageous positions. Where shanty town or unauthorised settlements have come up, these are cleared or bulldozed to pave way for high tax yielding activities. Local development agency of today has a commercial and legalistic rather than humanitarian view of city problems.

vii) Lack of agencies for resolving local conflicts.

Master Plans by the time are completed get dissociated from realities. Areas shown as green are pulsating with human settlements and in the absence of resources, political and administrative will and sustained effort, master plans never get revised and become a source of local conflict in the city. In the absence of any institutions which reconcile these conflicts at local level, the stalemate continues.

viii) Discretionary powers of the enforcement agencies are inequitious in practice

Provision of discretionary powers in various enforcement codes create seeds of inequity right at formulation stage. Special exceptions on this basis discretions are used with abandon for the benefit of vested interests.

The Way Out

A cursory look at the problems being faced by the enforcement agencies is enough to convince any one that drastic changes are required in:

- (a) revising the strategy of development controls; and
- (b) strengthening the enforcement agencies and change their practices and procedures.

I personally feel that if we take following steps the seriousness of the problems can be mitigated to a large extent:

i) By giving poorman's orientation to the Codes

By making various standards affordable we can make them enforceable. Decent standard approach has not worked and will not work till at least tolerable living standards are achieved.

ii) Development Controls though can be formulated but cannot be enforced at local level.

More of regional approach is needed to solve the local problems. Many local agencies have found to their dismay that land use has completely changed on the periphery just because the other local authority has permitted industrial use etc. Land use gets determined at regional level leaving enforcement to the local level. In the process, the regional authorities rarely get subjected to the pressures and continue to remain in blissful ignorance. It is, therefore, essential that their responsibility is shared by all connected authorities.

iii) Improving the effectiveness of enforcement agencies

Some of the above listed constraints of enforcement agencies can be easily overcome if we strengthen the enforcement agencies.

iv) Periodic Review of all that is formulated and what is enforced

Cities change and since regulations adversely for favourably affect the people and their possessions, it is desirable that a periodic review of all regulations is attempted. Static plans trying to deal with a dynamic situation have little chances of success.

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SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'

(MARCH 20 - 21, 1978)

INADEQUACIES IN BUILDING REGULATIONS AND
REMEDIAL MEASURES FOR EFFECTING CONTROL
OF URBAN BUILDING ACTIVITIES

by

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INADEQUACIES IN BUILDING REGULATIONS AND REMEDIAL
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SYNOPSIS

The paper briefly mentions about the problems of urban development and identifies some factors responsible for non-conformity to Building Bye-laws and Regulations. The need for a realistic approach for evolving rational building bye-laws and regulations has been brought out. To remove the inadequacies in building regulations remedial measures such as rationalisation of building bye-laws, permitting innovations in building, guidelines for low income group housing, guidance to builders, etc., have been suggested. Accent has been laid on new concepts for urban development and for associating technical persons to a greater extent in formulation of rational policies of urban development and for their effective implementation.

NATIONAL BUILDING ORGANISATION

Inadequacies in building regulations and remedial measures for effecting control of urban building activities

Rapid Urbanisation: During the last over three decades, the urban population has swelled due to heavy influx of population in urban centres in search of employment and attractions offered by city life. The phenomenon is popularly described as 'urban explosion'. As the urban administration has not been able to cater to the rush of population to urban centres, it has resulted in preponderance of acute housing shortage and existence of slums and squatter settlements in urban centres. It is estimated that 25-30 per cent of the urban population lives in unsatisfactory housing conditions, which can be said to be an affront to human dignity. The absence of comprehensive policy of urbanisation, land use and housing - specially for the low income groups, is by and large responsible for uncontrolled building activities in urban centres.

Problems of Urban Development: Despite formulation of town planning regulations and building bye-laws for major urban centres in our country, effective control on building activities has not been possible and in many cases building activities have been undertaken in violation of the provision of the building bye-laws and the Master Plan, on a scale that can cause concern to any urban administration. In metropolitan centres the violation of building bye-laws and regulations

has been noticeable to a far greater extent as is evident from the mushrooming of a large number of squatter settlements and unauthorised housing colonies and other types of constructions.

In smaller towns as well, disorderly urban growth has been taking place and non-conformity to building bye-laws is commonly practised. However, the urgency of the matter has not come to the fore. With rapid increase in urbanisation of smaller towns the situation there too is getting out of control as has happened in the metropolitan cities and large towns. Broadly this situation can be attributed to the following:-

- a) In the heart of the city centres, due to high land values and fast growth of commercial activities, rents of buildings are high and additions and alterations have been frequently made often in contravention with the building bye-laws.
- b) Violation of Master Plans have been frequently made in developing new housing colonies as well as industrial and commercial units due to pressure of urban development.
- c) On the periphery of the city, unregulated development has been brought about by speculative builders without giving due consideration to developmental regulations in force due to inadequacy

of municipal administration to cope with the situation.

d) In the case of plotted development due to high land values and outmoded building bye-laws large number of violations of building regulations have been made. On account of this, penalties for non-conformity to building bye-laws have been levied in many cases to regularise constructions and from time to time modifications in the building bye-laws have also been necessary.

Need for Realistic Approach: The measures which have been adopted to regulate urban building activities have proved to be far from inadequate. The work of preparation of Master Plans to promote the orderly growth of large urban centres was taken up rather belatedly. Moreover, in many cases the concepts on which the Master Plans were based have not been found to be in conformity with the dictates of practical requirements. As for example, some of the notable characteristic features of Indian way of life which have not been properly accounted for while evolving the Master Plans relate to:-

- (a) high density living in low-rise development to which the mass of population has been accustomed to;
- (b) buildings are used for work-cum-living in many commercial areas;

- (c) mixed living is commonly found where people of different income groups reside in the same locality;
- (d) the work centres and commercial activity centres are integrated within the residential sector and these are with walking distances.

The building-byelaws framed by the municipal authorities who are also incharge of its implementation are by and large outmoded resulting in uneconomical use of land and constructions. These inhibit innovations in building developed as a result of recent advances in science and technology by the application of which not only the cost of construction could be lowered but buildings and structures could be made more efficient in their performance. Due to pressures of modern urban requirements, violations of building bye-laws have not been uncommon. Moreover, the lengthy procedures that are involved and the restrictive nature of the building bye-laws have led to their bypassing and undertaking construction work in an unauthorised manner taking advantage of the inadequacy of urban administration to cope up with their responsibility. Inability to control such developments coupled at times with the pressure which unauthorised housing colonies and squatter settlements are able to muster for regularisation of such settlements at a future date, has resulted in many flagrant violation of the building bye-laws.

By and large the municipal administration and urban developments authorities have given inadequate attention to the work of control of urban building activities and this in a way has allowed the problem to grow to such an extent in certain urban centres that remedial measures are either not possible or very costly and difficult to implement. In dealing with the problem of this nature, which is vital for urban development and complexities of which will grow in size in years to come, it is necessary for the developing countries like India with high rate of urban growth to identify the inadequacies in the building regulations and to take remedial measures. Some of the important measures that are suggested to effectively control building activities in urban areas include the following:

1. Rationalisation of building bye-laws: The Municipal/ Administration and Local Authorities should periodically study in-depth the practical implications of the existing building bye-laws and regulatory practices framed by them, specially in the context of specific needs and exigencies of situation. Also feed-back of experiences of house builders, architects, engineers and the town planners should be taken advantage of for modifying building bye-laws. This is a continuing process to which adequate attention should be given. This would

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lead to rationalisation of building bye-laws and obviate non-conformity to these in future, to a large extent.

2. Permitting Innovations in Building: In an attempt to rationalise building practices based on present day scientific knowledge and technology a National Building Code of India has been brought out by the Indian Standard Institution. The National Building Code is a comprehensive document aimed to ensure a structural, constructional, fire and health safety of buildings and its occupants. Although the National Building Code was brought out as far back as 1970, laying emphasis on performance concepts of buildings with a view to promoting innovations in building for achieving economy in building, not much progress has so far been achieved in revising the local building bye-laws of metropolitan cities, large and small towns in keeping with the provisions of the National Code. It is obvious that unless innovations are permitted by revising out-dated building bye-laws it will not be possible to cater to modern building requirements.

3. Guidelines for Low Income Group Housing: A number of squatter settlements, slums and unauthorised housing colonies have come to exist in which a large majority of urban population lives in unsatisfactory housing conditions. This can be attributed to the fact that the existing bye-laws and provisions of the National Building Code do not cater to the requirements of housing for the low income groups. To consider this matter, a Development Group on Low Cost Housing had been constituted by the Ministry of Works and Housing under the aegis of N.B.O. The Group has submitted its report recently giving guidelines on evolving housing schemes to suit the requirements of the low income groups. The N.B.O. in collaboration with Indian Standard Institution, Housing & Urban Development Corporation and others had been asked to take up the work of preparing guidelines for housing the low income groups. At the initiative of the N.B.O., the I.S.I. has been entrusted the work to evolve guidelines to cater to the requirements for housing for the low income group. Also in order to enable implementation of low cost housing programmes for the masses, it is necessary to take a realistic view at the provisions of the building bye-laws which come in the way of building houses at very cheap cost.

4. Guidance to Builders: The Municipal Administration permits only such of the designers - architects, engineers and others who register with them, to prepare building designs, plans, etc. which they submit on behalf of their clients for approval by Municipal Administration. Often the clients and designers join hands to violate some provisions of building bye-laws anticipating certain penalties for compounding the violations. The client, therefore, needs to be educated about the import of building bye-laws and the advantage that accrue to them. The designer should also be consulted from time to time to understand their point of view and to benefit from their expert knowledge and advice for making such modifications as are necessary to the building bye-laws arising out of modern requirements of building and land use economy.
5. Preparation of Type Designs: In order to assist the commonman in building his house, it is necessary for the municipal administration to provide him guidance so that he is able to fulfil his building requirements while conforming to the building bye-laws. One way to achieve this, specially in the case of low and middle income groups is that the municipal administration may provide type designs of houses to suit various plot sizes, orientations etc.

conforming to the building bye-laws for the guidance of house builders. Should the house builder like to adopt any of these designs, the need for seeking approval from the municipal administration should be done away with which will provide him incentive for straightaway adopting these designs, thereby conforming to the building bye-laws. In case the house builder desired to have some modifications to meet his specific requirements, necessary technical guidance should be provided to him. Similarly indicative type designs of other types of buildings such as for group housing, schools, health centres, community buildings, should be made available so that the builders are able to appreciate the implications of building bye-laws. In order to provide a wide variety of attractive designs, the municipal administration may hold design competitions from time to time to achieve this objective.

6. New Concepts for Urban Development: In recent years to cope up with the complexities of urban development, in addition to municipal administration, urban development authorities have been created in metropolitan centres as well as large cities. One of the responsibilities entrusted to these authorities is to evolve and also

implement the Master Plan for the urban development and exercise control to ensure economical use of land and its development to provide necessary urban services. These urban development authorities have a very important role to play. Their efforts is in fact intended to supplement the efforts of the municipal administration for exercising proper control of urban building activities. Various complexities of urban developments have to be resolved which call for new concepts, new ideas and new approaches. In this task it is becoming increasingly necessary to actively associate technical persons, like planners, architects, engineers and builders in formulating rational policies for urban development and for their effective implementation.

SEMINAR ON 'CONTROL URBAN BUILDING ACTIVITIES'
(MARCH 20 - 21, 1978)

PAPER ON

- * CONTROL OF URBAN BUILDING ACTIVITIES.
- * LAND USE CONTROL FOR OLD BUILT UP AREA.
- * BUILDING BULK, APPEARANCE AND SHAPE.
- * SQUATTING ON SPUBLIC LANDS.
- * ENFORCEMENT MACHINERY FOR DEVELOPMENT CONTROL.

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CONTROL OF URBAN BUILDING ACTIVITIES

Introduction

In the paper while describing the "Land Use Controls for Old Built Up area" an attempt has been made to illustrate the general problems of older parts of the cities and a strategy for enforcing Land-Use Controls for improving the conditions thereof. Further more, height and bulk relationship, appearance and shape in respect of old and new parts of the cities, have also been described, in general in the chapter of "Building Bulk-Appearance and Shape" the part on "Squatting on public Lands" includes the causes of origin of squatting on public lands, kind of squatting and recommendations for removing thereto in brief. The fourth aspect i.e. "Enforcement Machinery for Development Control", includes the present set up of Enforcement Machinery as well as present dev. controls and shortcoming thereof.

(A) LAND USE CONTROL FOR OLD BUILT UP AREA

1. Problems:

With the rapid urbanization and passage of time different urban areas originated in different periods with different intensity of problems. As a result, the older parts of the towns which are the result of unplanned development since ages become quite different as compared to new parts of towns with respect to their physical and

socio-economic characteristics. The older parts of the towns/cities consist of unconforming and confused land uses due to the fact that various functional areas emerged over a number of decades when the need arose as the population grew. Now these areas are also suffering from unbalanced development which has resulted in extreme congestion in the urban core, shortage of housing, development of poorly situated or un-balanced neighbourhoods, presence of slums and blighted areas, existence of shops on either side of the roads without parking facilities which has created traffic hazards, defective circulation and traffic bottlenecks and level crossing seriously delaying traffic jams, negligible outdoor public recreational facilities such as organized parks, play grounds and open spaces inadequate and unequal distribution of public amenities and services, unorganised location of public/Government offices and lack of water supply, sewerage and drainage facilities.

1.1 LAND USE CONTROL FOR OLD BUILT UP AREA - A strategy for problems:

The problems of central areas of the cities which are the focus for social and cultural activities of mankind, cannot be solved unless otherwise the enforcement of land use control. Land use controls are of utmost importance for protecting the particular use zone against the invasion of non conforming uses and thereby promoting public health safety, general moral and welfare of the community as well

as police power for the utilization of particular land or buildings thereon in accordance with the Master Plan of the area. In order to improve the central parts (older parts) of the cities through land uses control, two measures i.e. (i) Shifting of non-conforming land uses to their respective use zone and (ii) Redevelopment of older parts through conservative surgery are required to be taken.

1) Shifting of non conforming Land uses:

At present the older parts of the towns are characterised with unconforming land uses. For example, in the walled city of Amritsar the industries, shops, educational/medical institutions are working side by side creating nuisance in the localities. In order to enforce land use control, all the non conforming uses should be discontinued or shifted to their respective "Use area" or made conforming in accordance with the provisions of Master Plan in a phased manner to heal their enviorns. In the walled city of Amritsar, the trade in primary produce and bulky materials (e.g. grain, iron and steel, timber & fodder etc.) goods transport as well as manufacturing should be shifted out to their respective use.

2) Redevelopment or Urban Renewal of older parts of cities through conservative surgery:

In order to enforce land use control as well as development control, the older parts of the towns is to be renewed through the principles of "Conservative Surgery"

i.e. only the decayed areas are to be cleared and redeveloped and buildings and areas in good condition are to be conserved and further improved with adequate community facilities and circulation to improve the living and working conditions. In case of walled city of Amritsar, the older parts will be improved/redeveloped by preparing/executing various development and improvement schemes under the Punjab Damaged Area Act; The Punjab Town Improvement Act and The Punjab Municipal Corporation Act.

(B) BUILDING BULK, APPEARANCE AND SHAPE

1) HEIGHT AND BULK RELATIONSHIP

In order to preserve adequate light and air for interior spaces a good relationship between buildings and open spaces is required. The necessity for space around buildings is based on the building floor space in relation to exterior circulation i.e. streets, side walls and parks which are critical factors for determining the height and bulk of the buildings. In Amritsar city and so in all old cities the height and bulk relationship is changing from one part of the towns to another part. Moreover, height and bulk relationship changes as the population of the city increases. In general height and bulk relationship in old and new parts of the towns are illustrated as below.

(a) Height and bulk relationship in the older parts of the town.

Since, the older parts of the towns are the result of unplanned development since ages and associated with highest

densities of population. As a result, in general, 4 storeys buildings are found with no space around building i.e. with no side, rear and front set backs in the walled city of Amritsar. Thus, lacking fresh air and light, the buildings in the walled city of Amritsar are hazardous to health.

(b) Height and bulk relationship in new areas of the town:

The newly developed parts of the city, include two types of area (i) planned areas (ii) unplanned areas. In the planned area, the area which have been developed through Town Planning and development scheme; a good relationship of height and bulk have been maintained. However, this relationship has not been maintained in unplanned areas.

ii) APPEARANCE AND SHAPE OF BUILDING:

Appearance of the buildings are dependent upon the factors of land scaping of surrounding roads and areas, planned buildings, facade and building control applied for and material used in the buildings. In the old parts of the towns, due to deteriorated structures, no development/architectrual control situated on zig zag narrow roads without landscaping do not reflect good appearance except religious/historical monuments. In general in the older parts of the town row housing having negligible space for ventilation are found.

Thus, all the factor, illustrated above i.e. no Height and bulk relationship due to unplanned development, bad

appearance of buildings due to deteriorated condition of buildings resulting in their obsolescence and inhabitability are the strongest factors for calling urban renewal.

(C) SQUATTING ON PUBLIC LANDS

1) CAUSES OF ORIGIN OF SQUATTING ON PUBLIC LANDS:

The term squatting means unauthorised possession and construction on public land. There are three main reasons for squatting on public lands.

- i) Due to lack of a positive programme, the gap between demand and supply widened as the plots for commercial, residential and other purposes were not fully met.
- ii) The unauthorised construction on public land was not checked by the enforcement machinery. Moreover, in the absence of any checking, the Govt. land can easily be occupied as compared to private property. That is why there is unauthorised construction and illegal occupation of Government land.
- iii) Due to high cost of land and construction of building, persons relating to economically weaker section find shelter on public land by raising temporary huts. Thus occupy the public land.

2) KIND OF SQUATTING:

There are two types of squatting (i) on roads, foot paths and commercial streets by the shopkeepers and Radiwala and (ii) on vacant public land for the purpose of residents. In Amritsar city a good amount of Nazool land is illegally occupied. In the city the squatting on roads, foot paths and on commercial streets has caused traffic hazards. Thus squatting on public land is one of the main problems which should be checked in the public interest.

3) RECOMMENDATIONS:

In order to check the squatting on public land following measures should be taken by the civic bodies.

i) Resettlement of the squatters:

Adequate space should be given to the squatters at suitable places and they should be shifted accordingly.

ii) Strict control for unauthorised possession and construction.

There should be a strict control and regular vigil on public land for checking unauthorised possession and construction.

iii) All Govt. vacant land should be developed immediately.

(D) ENFORCEMENT MACHINERY FOR DEVELOPMENT CONTROL

1) PRESENT SET UP OF ENFORCEMENT MACHINERY AND SPORTCOMING THEREOF.

In order to describe the enforcement machinery for development control, an illustration has been made in respect

of Development Agencies working at Amritsar under the provisions of different Acts. In general, in Amritsar City, no land use control is practised due to lack of statutory provisions of land use control/zoning regulations without which no haphazard development can be checked. However, some development controls are being enforced under various Acts as mentioned below by different development agencies in isolated manner.

i) Municipal Corooration:

The Municipal Corporation prepares the (i) Town Planning schemes for unbuilt areas (ii) building schemes for built up areas and (iii) General improvement schemes for unheal thy/unhabitable areas. In these schemes the corpora-tion enforces its full development controls. However, the areas which do not fall under the above schemes but are situated within the M.C. limits, the development controls are governed by the Building bye-laws prepared by the corporation. The above legislation of Municipal Corporation is unable to enforce the landuse control.

ii) Town Improvement Trust:

Town Improvement Trust Amritsar can prepare General Improvement Scheme and rebuilding scheme, street schemes and deferred street schemes, development and expansion schemes, Housing accommodation schemes, and Rehousing schemes under the Town Improvement Act and the Punjab Development of Damaged Area Act. Thus, the Trust enforces the development

control only in the areas falling under the above schemes. The Town Improvement Trust Amritsar has the facility of taking possession on land under schemes in the walled city of Amritsar without remitting payment of the awards before possession. Therefore the schemes could not be delayed by reason of acquisition.

iii) Housing Board:

Under the Punjab Housing Board Act, the Housing Board can also execute all or any of the schemes mentioned in para (ii) above. Thus, Housing Board also enforces the development control in its respective area.

iv) Punjab Government:

In the periphery of the city, three controlled Areas (Now some parts have come under M.C. limits) were declared by the Punjab Government under Punjab Scheduled Roads and Controlled Areas Act to check the haphazard development in the periphery of Amritsar city. Similarly the Govt. (Urban Estate Deptt.) can also develop any pocket under urban estate Act. Thus, in these areas Punjab Govt. enforces development control. Thus, in Amritsar city 4 development agencies are working in isolation with each other under different Acts.

2) PRESENT DEVELOPMENT CONTROLS AND SHORTCOMING THERE OF

From the above study, it has been concluded that the impact of development controls individually or when taken together is not the same as it is expected. This is due to reasons as mentioned below:

i) Lack of suitable planning legislation:

The various acts and bye-laws in force at present are outdated and obsolete i.e. the Municipal Act come into force in 1911 similarly Building Bye-laws in 1958, thereby not taking into consideration the technological and scientific development achieved till now and also the change of various requirements from old days of 1911 and 1958 to now-a-days thereby making them ineffective and useless. For example:

- i) Provisions of reservation of 25% land under streets and open spaces in Town Planning schemes is quite on low side thereby leaving no space for public utilities, amenities and facilities and also providing no scope for commercial scheme.
- ii) Moreover, most of the Town Planning Schemes are not executed within a required time as in the Municipal Act there is no binding on the private individual to convert his land in accordance of the sanctioned Town Planning Scheme.
- iii) The Punjab Scheduled Road and Controlled Areas Act also remained unable to check the haphazard development in the controlled Areas declared within 8 Kms. around various urban centres due to the fact that there are some loopholes in the Act itself and implementing machinery.
- iv) Similarly the schemes are delayed under Town Improvement Act as there is no legal power with the enforcement authorities in case of stay orders.
- v) Moreover, in all the Acts, the penalties, in case of violations are inadequate and sometimes make controls ineffective as lump-sum amount is taken as fine for violation of any law and the building is allowed to remain as such, which encourage people to violate Building laws.

However, in the state there is no comprehensive planning legislation which must tackle the various urban problems including zoning regulations and all development controls.

ii) Poor enforcement of scheme and lack of co-ordination of various schemes:

In the offices of various implementing agencies, the enforcement staff is inadequate. Under the Municipal Act, Municipality is authorised to ask owners to pave, metal and provide utility and services at their cost and then declaring it a public street for its maintenance but this section has never been made use of except in few cases, now-a-days. Sometimes, in the enforcement of the schemes, it has been identified that due to political interference and self-interest, unauthorised construction are coming up. It has also been identified that inspite of existing laws, the local bodies even remain unable to check the misuse of land and unauthorised development and construction due to lack of adequate staff. Moreover, no proper step/decision has been taken with regard to the unauthorised colonies/construction in various areas causing resentment in public and also coming up of more and more such developments.

iii) Inadequate technical staff:

Inadequate technical staff has also resulted into delay in preparation of various schemes, as per the demand of public, thereby encouraging unauthorised development.

iv) Other Major Factors:

- i) There is no co-ordination between formulation, implementation and administrative authorities and also there is multiplicity of agencies for acquisition, development and registration with no co-ordination between them.

- ii) There is usually no public participation in various stages of Development Controls so lack of awareness in public and even staff also.

1.4 RECOMMENDATIONS:

Following recommendations have been made for controlling the landuse in a town/city.

1. Unified set up.

Various agencies responsible for acquisition, development, control and registration of land should be brought under a unified set up to avoid delays and lack of co-ordination or alternatively suitable co-ordination should be worked out between these agencies.

- 2. Comprehensive Town Planning law of the state, Punjab Regional and Town Planning Ordinance should be revived to replace existing laws and bye-laws for avoiding multiplicity.
- 3. Various Acts and bye-laws should be amended to suit the existing social, economic and physical conditions and such regulations should be re-examined after every 5 years.
- 4. An amendment should be made under section 192 of the Municipal Act 1911 enabling upto 40% area for purposes under roads, parking and open spaces in case the Town Planning Scheme is prepared for Commercial purpose. Moreover, there should be a provision enabling the enforcement authority to enforce the individual owner for compulsory converting the use of land in accordance with sanctioned T.P. Scheme within the prescribed time after the scheme has been sanctioned.
- 5. Penalties for violation of Acts should be severe, so as to discourage unauthorised development. These developments should not be allowed to continue after imposition of penalty, except in very appropriate cases.

Provision of adequate staff:

1. The staff with local authorities should be sufficient and technically sound to enforce the development control.
2. There should be regular checking of misuse of land , unauthorised construction and unplanned & haphazard development. Any person/authority/corporation/deptt. violating any control should be duly dealt with.

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SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'
(MARCH 20 - 21, 1978)

URBAN BUILDING ACTIVITY: NATIONAL CONTINENTAL
AND INTERNATIONAL - RETROSPECT AND PROSPECTS

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Urban Building Activity: National Continental and
International Retrospect and
prospects.

Dr. C.M. PALVIA

I Introduction

The building industry is huge in terms of investment volume, and therefore it forms a spinal integrated part of the industrial system. In the process of cyclical fluctuations, and additive confluence of primary building cycles generate a long-period building cycle as a secondary process and often correspond often to the changes in general business conditions three or more months ahead. Usually building cycles create environmental inducements to forecast the arrival of business fluctuations. Thus, many economists* have identified the lead-lag phenomenon between 'building activity' and 'business activity', the number of turns

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1. The celebrities are: F.R. Maculay: Carl Shyder, W.H. Newmann, J.B. Hubbard, W.C. Mitchell, A.F. Burna, D.H. Roberts, C.D. Long, J.M. Clark, Harrod, Hicks, Kuznets, Frisch, Timbergen, etc. Of these, for the U.S. experience J.M. Clark (1) Industrial building shows are most regular timing and is most clearly synchronous with the general business cycle; it tends to lead on the upturn, but not on the downturn; (2) Commercial Construction shows less conformity with the business cycle, but does show a lead at the upturn; (3) Residential building shows a clear tendency to lead business cycle" (National Bureau of Economic Research: Strategic Factors in the Business cycles, New York, 1934, pp. 27-29)

in which building cycles led the business cycles was twice the number in which they lagged - during the period 1870 - 1938, in the U.S.A. The intervening period between the 'crest' to 'crest', and the 'trough to 'trough', in the 19th century, was however little less than four years. Further, during the 20th century the building cycles (as compared to that occurred in the 19th century) were at least 33 percent more severe.

2. Thus, the analysis of building activity, more so of 'urban building activity' is of significant import; the latter is becoming more and more important in the developing countries as the rate of increase in their urban population is accelerating. In contrast, its 'speed and content' for over some decades, has been 'cooling' in the developed countries of Western Europe and America - perhaps due to urbanisation process having reached there some degree of 'saturation' point nonetheless, the processes of 'suburbisation and urbanisation' have been substituting the 'urbanisation' process.

3. The building activity - residential and non-residential activity in size and speed will have to be stupendous in future - calling for need/supply of a variety of building materials, construction labour, and developed land area. The last one, because of limited and fixed supply shall have to largely meta-

morphise, and that to urgents into vertical movements of the building activity in the urban world of which the size and content will grow in developing countries by about four times that of the developed world in to increases in absolute terms of population by 1086 million, in developing world, and only 276 million, in the developed world. Further, the effort called for building activity (both residential and non-residential) will much more substantial, in the developing world, where the back-log of all types of physical infrastructure (including, residential and non-residential buildings & attendant roads, bridges, water-supply systems, railway tracks, sea ports, air-ports, sewerage and sewage systems, electricity - systems, gas-supply, etc.) air-ports, sewerage and . sewerage systems, electricity - systems, gas-supply etc.) abounds since hardly one third of the present population it properly housed and rest two-thirds are living in sub-standard housing and poor or no physical structure. Consequently, slum and squatter settlement, which are growing at accelerated or exponential rates.

4. The problem of wide variations in the building activity will take place, between developed and developing regions, place as the financial and physical-resources needed for building activity are in 'short - supply' in the latter. A 'new economic international order has to dawn to inject' confidence and satisfaction' to the beleaguered humanity under 'poverty of means and resources', of the developing world. Even though the America

Western Europe and Eastern Europe Countries (so also the OPEC countries) have given financial aids - in loans and grants, the 'burden of servicing the loans' is back breaking for the countries of the Third World. Soft loan terms, by some countries to the beneficiary countries, need to be more softer followed by writing off the accumulated debt obligations presently outstanding on debts received from the richer countries.

II. Gaps between Developed and Developing countries in regard to Building Activity.

5. Coming to the existing 'aura' of building activity in operation in the developed countries, is of a highly gratifying quality; in comparison the building activity sceneries in developing countries of Africa, Asia, and South America, is a 'sham' affair; this phenomenon, widens the gaps, in the housing levels of living and other accompanying joint supply standards of non-residential buildings and other constructions of non-building nature. About the aforesaid statistical pictures are given in Tables 1 and 2.

Table 1: Average Annual rates of (1) Population Growth, (2) Rates of Dwelling per thousand of persons, and (3) their Ratio

in the Selected Developed countries (1970-1974)

I <u>Developed Countries</u> Average Annual Rates of population/Dwell-			
ings per 1000 of population			
1	2	3	4
Name of the country	Population	Dwellings	Ratio
	Rates	Rates	Col.3
	per 1000	per 1000	Col.2
1. Austria	4.7	6.2	1.34
2. Belgium	3.6	4.8	1.33
3. Denmark	6.0	10.5	1.75
4. France	8.5	10.0	1.2
5. G.D.R.	1.6	5.5	3.4
6. G.F.R.	5.7	9.5	1.7
7. Ireland	11.7	6.6	0.56
8. Italy	7.8	5.3	0.66
9. Netherlands	9.6	11.4	1.2
10. Norway	7.0	10.2	1.4
11. Spain	10.5	9.7	0.96
12. Sweden	3.7	12.5	3.4
13. Switzerland	11.5	11.6	1.0
14. U.K.	13.1	6.1	2.0
15. U.S.S.R.	9.4	9.1	1.0
16. Yugoslavia	9.6	6.3	0.64
17. Europe (incl. East Europe Countries)	8.4	N.A.	
18. U.S.A.	8.5	8.6	1.00
19. Urban areas of (17)+(18)	also same except for Bulgaria, Ireland, Norway, U.S.S.R. where population rose by (20-39%)		

Source: (1) U.N. Demographic Year Book-1973; (2) U.N. Statistical Year Book-1973; and (3) Annual Bulletin of Housing and Building Statistics of Europe (1975) - U.N. Economic Commission for Europe (No. E/F/R.75.11.E.11)

6. The average annual increases in rate of population in the developed countries of Western Europe and Eastern Europe as also the USA, indicate that the annual raises, were around one percent per year, and some (numbering five countries) registered, the population yearly rise, of less than one - half percent (such as Austria, Belgium GDR as low as 0.16 percent Sweden, and United Kingdom) as portrayed by the data under col (2) of Table.I. However, as majority of the countries 'numbering nine)³ had their annual population growth between 0.5 - 9.6 and only three countries went up over 1 percent (namely, Ireland 1.17 percent, Spain, 1.05 percent; and Switzerland 1.15 percent).

7. The Column - 3 of Table - 1, presents another dimension that is of the dwellings which provide not only 'roof' but 'security against weather heat, cold, rain' and above all 'privacy' as well as 'togetherness'. In the developed areas it may be observed that in general, the rates of dwelling constructions are more than the rates of population growth for every 1000 people; the 'multiples' of the latter with former range '1 - 1.5' in eight countries (namely Switzerland and USSR, as '1'; France and the Netherlands '1.2' Austria and Belgium, '1.34' and '1.33'; G.F.R. '1.7' and Denmark, '1.75' whereas four countries Ireland, Italy, Yugoslavia and Spain have dwellings' multiple below '1' at 0.56, 0.66; 0.64 and 0.96 respectively - offering an image of little less developed countries within the group of more affluent countries. Still we have another image of another three countries of very high multiples in favour of dwellings; the countries

3.*The nine countries are; Denmark (0.6%); France (0.85%); G.F.R. (0.57%); Italy (0.78%); The Netherlands (0.96%); Norway (0.71%); USSR (0.94%); Yugoslavia (0.96%); and U.S.A. (0.85%). So also, Europe as a whole had a rise of about 0.84 per annum of population

being U.K., with a multiple of '2'; and both G.D.R., and Sweden '3.4'.

8. The developing countries of Asia, Africa and America present an opposite picture - except perhaps the 'new-rich' oil-producing countries, where also the absence of the data create a state of dispondency though perhaps building activity is booming. Most of the developing countries, have an average annual population growth of 2 percent but it rises to 3.7 (in Libya) and 3.9 (in Zaire), for the period 1963 - 1972 except for Chad, Argentina, China (in Asia) - no country in Africa South America, over Asia has a rate below 2.0. As against the high rate of population growth, the rate of residential construction per 100 population is abysmally low - and it makes thoughtful people shudder refuse even to dream for a hopeful solution even after decades of Himalayan efforts - the data of Table-2. registers the statistical profile.

Table -2: Average Annual Rates of (1) Population growth per hundred population (2) Dwellings per hundred persons; or (3) their Ratios in the selected Developing countries from 1963-1972 (for population) and developing activity for isolated years in 1960.

(1) Name of the country	(2) Population growth per 100 per year	(3) Developing rate per 100 per year	(4) Ratio Col.3 Col.2
-------------------------------	---	---	-----------------------------

A. Africa

1. Algeria(1963-72)	3.5	0.10(1966)	0.03
2. Egypt (1963-72)	2.5	0.17(1967)	0.06
3. Mauritius(1963-72)	3.1	0.27(1967)	0.09
4. Nigeria(1963-1972)	2.5	0.53(1967)	0.20
5. South Africa(1963-72)	2.5	0.12(1966)	0.05

B. South America

1. Chile (1963-72)	2.5	0.39(mid 60's)	0.08
2. Colombia(1963-72)	3.2	0.12(mid 60's)	0.04
3. Guyana (1963-72)	2.9	0.56(mid 60's)	0.14
4. Venezuela(1963-72)	3.4	0.42(mid 60's)	0.12

A. Asia

1. India (1961-71)	2.5		
2. Iraq (1963-72)	3.3	0.29(1956)	0.09
3. Philippines(1963-72)	3.0	0.22(1960)	0.07
4. Sri Lanka(1963-72)	2.3	0.08(1963)	0.03
5. Hongkong(1963-72)	2.0		
6. Singapore(1963-72)	2.0	0.85(1966)	0.42

UN

Sources: (1) Demographic Year Book - 1973
(2) UN Statistical Year Book - 1973

9. The basis of regarding building activity cycles as the precursors of business cycles, emanates from the rigidity of supply of building housing', because psychological inducement to invest remains alive as long as capital values of the building structures either higher or at least equal to the marginal costs of new unit(s) of buildings). In case, supply is elastic, the investment flows are drastically cut/expanded - following decline or incline in the market demand; almost identically, in case demand is elastic, the decline or rise in supply in the market is cut/expanded. The intense behavior of elasticities of supply as well as demand induce to invest. The costs, in the supply schedules of buildings, are the final resultants of rise in income which push demand levels, but it might as well happen" that after some time, the demand may slip down - reducing the size of supply schedules.

10. The basic composition of interaction to invest or to consume is regulated by technical, psychological and institutional factors via the tracks of 'multiplier' and 'accelerator', the former, provides stimulating effect of investment in pushing up the consumption, which demands production of 'goods and services' and causes chain reactions in multiplying marginal income(s) and vice-versa to cause more employment or lessen employment.

-
- (4) P.A. Stone in his paper on "cost Elements of Housing" has come to the conclusion that a 50 percent decline in building costs would only augment inducement to invest hardly by 25 percent.
- (5) Other factors could be technological advances, unionisation of labour or monopolistic production of building materials in lowering/raising wages or prices.

The latter that is accelerator), is an unintended periodic changes (of rise or fall) in consumer demand, which induce 'violent' fluctuations in periodic investment flows (by rise or fall in the flows); and it is principally in regard to consumer durables that the phenomenon is relevant; calling for either sizeable flow of investment funds or withdrawals of funds. This may follow also due to carrying on replacement investment or to postpone such investment which can be postponed during emergencies of 'war', 'famine' or any other national inflow of refugees or international contingency such as closure of the suez canal and pushing up of oil prices by O.P.E.C. countries).

Building sector ordinarily stands out as one of the biggest investment action in the life time of a person/family cycle; and such investment characterises by having physical and economic survival - which as well ignores the futurology and a long - life wisdom of the investment since might involve risk by chance, in investment, and could make it speculative involving changes in the 'purchasing power of money'. But generally the buildings have proved upwards in prices and have proved as inflexible to fall in prices during depressions and more flexible amenable to march upwards during booms; similar is the case in regard to building materials prices though with little lesser intensity. But, if the replacement investments are somehow, kept in trim, the climate of building cycles would be almost eliminated; nonetheless it is a pious hope, unless the

the public sector/institutional systems enter in a big way in the building market - to which the writer will revert at a latter stage in paragraphs 16,17 and 18.

12. Table - 3, shows that the countries with commendable rate of new supply of residential units (in relation to 1000 or 100 persons) keep the levels of other buildings stand on the certain proportionalities of investments in "fixed assets of construction" - and spread over (a) residential buildings, (b) non-residential buildings - like industrial, commercial, office, school, hospital, warehouse, entertainment buildings etc. and (c) constructions such as railways, roads, bridges, water causes and irrigation laws, ports, aerodromes, sewerage and sewage etc., are generally belong to a family of developed countries - and developing countries have to make a sizeable be-way. For example, in the major period of the in the first quinquennim of 1970s and particularly in 1973 or 1974) construction capital formation as a proportion of total G.F.C.F. ranged around 60 -65 percent, and again the shares in the residential buildings, non-residential buildings, and non building construction were around 30 - 50 percent, 33 per cent, and less 15 - 30 respectively of the total construction capital formation.

TABLE - 3 in GCFC and Proportions of G.C.F.C. to G.D.P. and Proportions construction Capital Formation Residential Buildings in Non-residential Buildings, and Non-Building Construction capital formations.

1	2.	3.	4.	5.	6.
COUNTRY	PROPORTION OF G.C.F.C. TO G.D.P.	PROPORTION OF CONSTRUCTION CAPITAL FORMATION TO G.C.F.C.	PROPORTION OF RESIDENTIAL CAPITAL FORMATION TO G.C.F.C.	PROPORTION OF NON-RESIDENTIAL BUILDINGS CAPITAL FORMATION TO G.C.F.C.	PROPORTION OF NON-BUILDING CONSTRUCTION CAPITAL FORMATION TO G.C.F.C.
Denmark(1973)	23.4	60.9	48.7	33.5	17
Finland(1974)	28.1	63.7	41.5	34.6	32.1
France(1973)	25.9	55.7	35.0	48.0	17.0
Greece(1973)	27.7	57.8	48.3	18.9	33.3
Ireland(1970)	21.6	50.6	33.8	36.6	29.6
Italy(1973)	23.3	56.3	52.2	33.4	14.4
Netherlands(1973)	23.9	58.4	46.3	34.1	9.6
Norway(1973)	30.1	58.2	30.4	30.3	39.3
Spain(1970)	21.3	51.6	33.7	25.1	41.2
U.K.(1974)	20.3	53.7	37.0	n.a.	n.a.
U.S.A.(1973)	18.2	58.3	40.5	32.1	27.4

Source: Annual Bulletin of Housing and Building Statistics for Europe, Table-2 1974 (U.N. Economic COMMISSION for Europe).

13. In contrast in case of the developing countries the proportions of residential sub-sector's investment to construction investment (which also in 55-70 per cent of CFCF have been 10-20 percent (or little less or over) and the shares of the other two sub-sector's (that is, non-residential building and non-building construction) are 80 - 90 percent - inordinately at higher levels. It is evident that in countries of ESCAP Region, lower priority for residential sub-sector has been continuing in investment strategy as compared to other components of investment in construction perhaps to create more of non-residential construction infra-structure (see Table 4 column - 2). So also the proportion of 1 - 2 percent of G.N.P. is allocated to the residential sector in the ESCAP Region, though it is little higher in ECLA Region, ranging from 2 - 4 percent of G.N.P. but not nearer to 4 - 6 percent range to G.N.P. in the developed countries (see Table - 4 column - 3).

TABLE : 4 Proportions(1) of G.C.F. in Dwellings Sub-Sector to the G.C.F. in the Construction Sector and (2) Proportions of G.N.P. involved in the Dwelling in Selected Developing countries.

<u>Region</u>	<u>Country year</u>	<u>G.C.F. Dwellings as proportion of construction G.C.F.</u>	<u>Range percentages to GNP in the countries of construction ESCAP and ECCA Region</u>
<u>Asia</u>			
	China(Taiwan) 1960	13.00	17 - 2.3
	Malayasia 1959	13.00	1.4
	India * (i)Third Plan	10.00	2.0
	(ii) Fourth plan	8.00	1.8
	(iii)Fifth Plan	6.66	1.5
	Korea 1960	11.00	1.8.2.3
	Philippines (1960)	n.a.	1
<u>South America</u>			
	Argentina	27.00	4.0
	Columbia	11.80	n.a.
	E Cuador(1957-59)	17.90	2.2
	Honduras(1955-57)	26.2	3.4

Contd..

Mexico (1955)	17.1	2.4
Venezuela (1957-59)	12.4	3.2
Guyana (1954-56)	17.4	3.5
Puerto Rico (1957-59)	22.6	4.5
Jamaica n.a.	m.a.	3.0

Source: VN Statistical Year Books (from 1955-60)

* For more macro elements in case of India see Annex.1

Table - 4

14. As explained earlier in paragraph-11, it may be reiterated that the 'acceleration principle' operates not only more forcefully but violently in the 'residential sub-sector' than in the 'manufacturing sector'-primarily effected by the changes in the population/households either due to natural growth or immigration/emigration or in the social trends in the contraction in the size-composition of average household. As an illustration, let us assume that in a country with half million population, the households are 100,000 with an average size of household of '5' persons occupying 100,000 housing units' and 'no household' is houseless and no housing unit is vacant. Overtime, it be further assumed that due to depreciation and obsolescence, 2. percent of the housing units are reduced every year in the 'stock of housing units' which need to be 'replaced' in order to keep the housing stock intact at 100,000 units; and any decrease in households, it is supposed is neutralised by an equal increase in households - thus keeping the

number of households at the original numerical level.

15. In unchangeable situations, the normal replacement demand of 2 percent of the 100,000 housing units, a year will be 2000 units. It is got adjusted by new supply (or construction) of 2000 units. Suppose, in a particular year (or time period), the number of households increases, by 1 percent, due to natural growth and/or immigration and/or contraction in the average size of household and/or more formation of families/households due to marriage or break-up of joint families, in consequence the demand will grow to 3000 from 2000 - an incline in demand by 50 percent for highly capital intensive product(s) of housing units thereby raising building activity by 50 percent. If one housing unit had an average value of Rs.10,000 the change in demand will raise the annual size of investment construction from Rs. 20 million (for replacement alone) will move up to Rs. 30 million - needing an extra raise by Rs. 10 million. The inflated demand for new-housing is not maintainable for all time. Later, it so happens that due to fall in marriage rate, birth control or celibacy, or emigration, or increase in the size of average household, the fall in families/households commences which declines the demand for housing by 1 percent. The situation returns to 2000 units replacement demand only - registering a fall in building activity/investment by 33.3 percent. From the above changing phenomenon, it merges that a small

change in households just by one percent change affects the raise in investment demand by 50 percent, and a similar proportional fall contracts the demand by 33.3 percent - a concurrence to operation 'acceleration principle' - which is applicable to all 'fixed investments' which involve sizeable capital investment and whose life-span is also very long of few decades.

16. In developed countries, notwithstanding higher per capita/per household incomes - a large proportion of the households (as much as 70-90) are helped through public financial aid (as can be seen from Table 5). In developing countries, unless the State takes initiative in raising proportions of financial aid on 'soft-terms' of low interest rates, tax-reliefs, long amortization period, less proportion of down-payments, the problem of housing-supply (or house-building activity will always remain depressed at 1-2 units, per 1000 of population. In these, countries States' initiative can become doubly-rewarding since it simultaneously creates for the elimination/reduction in 'unemployment' and 'under-employment' both 'at site' and 'at off-site' because of a services of 'multiplier effects' in raising demand and therefore generating production of a number of building materials.

TABLE 5. SHARES OF PUBLIC FINANCIAL ASSISTANCE (AS LOAN AND/OR SUBSIDY IN SELECTED DEVELOPED COUNTRIES).

Country	% of Public Financial Assistance to (new) housing costs
Australia	60-70
Belgium	53
Denmark	85
France	91
Ireland	97
Netherlands	95
Norway	66
Spain	66
Sweden	97
U.K.	68
West Germany	52

Source:- Financing Housing (U.N. Economic Commission for Europe)

17. Building materials and labour form the important 'inputs' of residential buildings. The residential and non-residential buildings form 50-80 percent of the construction activity; and the building materials - which are the 'finished' and 'final' products of various key industries - form the raw materials for the building industry activity; these materials are steel cement timber, sanitary wares, paints, etc. The share of financial investments on building materials and components, range from 44.5-68.4% in countries of (former ECAFE) Region; so also 'building materials are components' shares in G.N.P. also range from 2.6% to 12.72% as shown under Table 6.

TABLE 6: SHARES OF INVESTMENTS SPENT ON 'BUILDING MATERIALS AND COMPONENTS', IN CONSTRUCTION ACTIVITY AND THEIR PROPORTIONS to G.N.P. of eight ESCAP COUNTRIES.

(1)	(2)	(3)
Country	Share of Investment on Building materials and components; in construction activity.	(2) as a % of G.N.P.
Australia	58.56	7.17
India	44.5	4.36
Japan	68.40	12.72
Korea(Republic)	50.00	6.5
Malaysia	64.04	4.35
Newzealand	56.00	6.72
Pakistan	33.00	2.6
Philippines	52.56	4.26

Source: UN ESCAP (ECIPE) Economic Bulletin, Vol. CVII No. 2. Sept. 1967 Supplemented by the latest available information from country sources.

18. In India, according to a Planning Commission Publication 'Material and Financial Balances' it emerges that 15 percent, of the metal products industry; 48 percent, of iron and steel; 97 percent, of cement; 16 percent, of non-ferrous metals; 98 percent, of ceramics and bricks etc, 11 percent, of glass and glassware, 32 percent, of wood products, 66 percent, of timber; 50 percent, of other products; 68 percent of paints; and 4 percent, of petroleum products are sold to the construction industry.

19. In the USA, about 50 percent, of the output of five industries, 20 percent, of thirteen industry; and 10 percent, of thirty-nine industries is absorbed by the construction industry. Inter-dependence of the building industry is thus well established; justly this industry operates as a 'conveyor belt' for the other materials industries, for the cement and timestores, supply of jute bags, electric power, iron-steel, coal etc. These inter-involvements have, a series of chain reactions and ramifications (with multipliar effects on investment output, consumption, employment etc) and therefore on social and economic development.

III Indian Experience in Building Activity

20. The data flowing from 1971-census suggest an 'arithmetical shortage' of about 3.6 million dwelling units in rural India million vis-a-vis 78 million rural households and 74.4 million rural dwelling stock); and of 0.5 million units in urban India (vis-a-vis 19 million urban households and 18.5 million urban dwelling stock). This made an approximate 'arithmetic shortage' of 4 million dwelling units, in 1971. Thus the data indicate a dimension of shortages of little over 4 percent only; but if the 'unservicable kutcha', and 'servicable kutaha' dwelling units are knocked out from numerical stock, the total dwelling shortages mount to 38.9 million units: 36 million in rural areas and 2.9 million in urban areas. Further, if the criterion of the U.N. document: Statistical Indicators of Housing condition (UN Sales No. 62.XVII.7) is applied, the 'conventional' (or 'pucca') houses alone can be classed as proper cubicle dwellings

established that only 25.9 million dwellings (14.1 million in rural areas, and 11.8 million in urban areas) are worthwhile, showing a shortage of dwellings in relation to total households of about 74.1 million units (or about 73.3 percent of shortages).

21. Again, if the quality of houses is taken into consideration in terms of density per room, proportion of households living in only 1-2 room houses, as also extreme 'overcrowding' and 'congestion' make liveability of the dwellings questionable because the households environment becomes unhygienic and prone to ill-health. Similarly, if potable water-supply is available a few people are so is the case sanitary facilities the carriage of various maladies prey on the physical health of the people, their productivity are raised frequencies and intensities of absenteeism. Thus, the standards of living portrays phenomena of vicious circle of ill-health poverty, illiteracy, low-income, and low-rate of savings. Because of these constraints, it is well-nigh, not possible for an average household in rural and urban areas to mobilise adequate savings over life-times working-effort to finance the capital cost of a house. So also even to live in a good rental house is equally difficult because current income cannot bear the burden of rent/and rising rent-levels, in the urban situation and moreso in larger towns of class I cities, Consequently, nearly 65-70 percent of urban households have to live in sub-standard houses. Above all, the rate of supply of

needed housing units is very low, the shortages and sub-standard houses (or doubling of families/households) become the life styles of the Indian cities, in general; and that in metropolitans cities even worse with the plague of fast growing squatter and slum habitats(?).

22. During the decennium (1961-1971), the increase in the urban housing stock, in India, was of 5.2 million whereas the increase in urban households was 4.2 million. But there is a catch in the arithmetic the housing stock; these should have depreciated by at least 0.4 million - hence the net increase in the urban housing stock could have been of 4.8 million. But actually the average size of urban household increased to 5.73 in 1971 from 5.25 in 1961; this picture reveals the parallax of the 1971-census; most probably the increase in the average size of household is nothing else but the 'over crowding' resulting from "doubling offamilies/households" in the face low-level of the supply of dwellings or low-rate of building supply activity. Similar view under be correct, in case of rural housing stock and average size of household as well, the latter having gone upward from 5.1 in 1961 to 5.26 in 1971. If the building activity would have gone to match the new demand, the neutralization of depreciation effect, actually the average sizes of rural and households should have declined to '5' or even smaller size. The actual shortages of houses in rural and urban areas, in 1971 could then be of 21-32 million and 5.6 million

respectively - marking a national deficit of 26.98 million housing units without adjusting for the mark-up for not regarding 'non-serviceable' and 'serviceable' kucha housing stocks of dwellings⁶ - by assuming the average size of household, at '5' members only.

23. The data of municipal urban areas, it is clear from urban building activity data, as presented in the UN statistical year Book(1973) Table-1380 page 338 in regard to India comes to only about 0.5-0.6 units per thousand of population - and it can be marked-up to a maximum of 0.8-0.1.0 units⁷ per thousand of population by adjusting the 'slum and squatter housing which is largely coming at an accelerated rate in the larger cities - amounting to about $\frac{1}{2}$ to $\frac{1}{3}$ of the 'new housing' ordinarily everywhere.

24. In other developing countries of ESCAP, ECLA and African regions, almost similar process is on though the new housing units are rising at a rate higher than 1 unit, for 1000 population, in some of the cities of the developing countries.

6. Refer to Annex - 2

7. These figures are also confirmed, by a N.B.O. study (1967) for the earlier years of 1960's, for over 150 Municipalities of population sizes of 50,000 - 1,000,000 persons.

Annex-I

Total investment and Investment in Housing in the
Five Year Plans of India

(Rupees in crores)

	1st Plan			2nd Plan			3rd Plan			4th Plan			5th Plan		
	Housing	Total	%	Housing	Total	%	Housing	Total	%	Housing	Total	%	Housing	Total	%
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
Public	250	1560	16	300	3659	8	425	6100	7	625	13655	5	1044	31400	3
Private	900	1800	50	1000	3100	32	1125	4300	26	2175	8980	24	3636	16161	22
Total	1150	3360	34	1300	6750	19	1550	10400	15	2800	22635	12	4689	47561	10

N.B. Percentages in Columns 3, 6, 9, 12 and 15 relate to investment in Housing as percentage to Total Plan Investment.

Population, Households, Housing Stock and
numerical shortages of Housing in India as revealed
by 1961 - 1971 Censuses

	RURAL URBAN TOTAL			RURAL URBAN TOTAL		
	(in million)			(in million)		
	1961			1971		
1. Population	360.3	78.9	439.2	438.6	108.8	547.4
	(82.0)	(18.0)	(100.0)	(80.1)	(19.9)	(100.0)
2. Number of Households	68.7	14.8	83.5	78.0	19.0	97.0
	(82.3)	(17.7)	(100.0)	(80.4)	(19.6)	(100.0)
	1187.72*			21.76* 109.48*		
<hr/>						
3. Housing Stock						
(a) Pucca	12.1	6.3	18.4	9.3	9.3	18.5
	(18.6)	(45.3)	(23.2)	(12.4)	(48.4)	(19.8)
(b) Semi-pucca	23.1	4.9	28.0	27.5	6.3	38.8
	(35.4)	(35.0)	(35.4)	(37.2)	(32.8)	(36.3)
(c) Serviceable Kutcha	21.9			20.8		
	(33.6)			(38.9)		
(d) Unserviceable Kutcha	8.1	2.8	32.8	8.5	3.6	40.9
	(12.4)	(20.0)	(41.4)	(11.5)	(18.8)	(43.9)
<hr/>						
4. Total housing stock	65.2	14.0	79.2	74.0	19.2	93.2
	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)
<hr/>						
5. Usable Housing stock	57.1	11.2	68.3	66.4	16.1	82.5
<hr/>						
6. Housing shortage (house holds usable housing stock)	11.6	3.6	15.2	11.6	2.9	14.5
			add +	9.72*	2.76*	12.48*
				21.32	5.66	26.98

*In case the average household size is taken at 5 persons and is not taken at 5.26, 5.73 and 5.64 respectively for rural, urban and total population.

Note: Figures in brackets are percentages.

IV. Conclusion

25. In spite of the cyclical tendencies inherent in the construction/Building sector, it is possible to moderate the impact of the cyclical volatility, if a large part of the building activity is financially controllable through public or institutional systems. The possible agencies could be the Housing Corporations that is H.U.D.C.O., L.I.C. and State Housing Boards and Housing Cooperative Financial Associations, such as the subsidiary recently being formed under the Indian credit and Investment Financing Corporation (ICIFR)-which can severally and jointly control the volume and financing of the building activity. But at present, in India their coverage is not substantial. Even, in rich countries, such as the USA, Federal Housing Administration, Veteran Housing Administration, Savings and Loans Association/Mortgage Housing Financial Associations, Housing Finance Guaranteeing Association and Life Insurance Companies play a great role. Housing Cooperative Societies in the Scandinavian countries, in the Netherlands, W. Germany, France and Building Societies in U.K. play a sizeable moderating influences to fight the cyclical upturns and downturns more prominently it was done after the Great Depression to correct unemployment and to reflate the economics.

26. Nonetheless what is important is to stabilise the situations of shortages/vacancies of the dwelling units in well-thought-out mechanism of certain level of financial investments. These can be adhering to certain proportionalities for building activity of GNP/ GDP, or GCF (Gross capital formation), percentages invested

in construction-alongwith balanced optimal distribution in the residential buildings, non-residential buildings, and non-building construction, bearing of relationship with the growth of population/households and the generation of new supply of dwelling units (as explained in paragraphs 5-17 in section II). For example, about 15-20 percent of the total investment may be invariably allocated to residential building and an other 15-20 percent for non-residential buildings, and it should also form 4-6 percent of the Gross National Product as against only 10 percent of total investment in residential buildings or 10-20 percent of construction investment or only about 1-2 percent of G.N.P.- the proportions which are in operation in most of the developing countries including India.

27. Since the unemployment and disguiser employment are sizeable in the developing countries, the encouragement to push up building activity would help in augmenting 'on site' and 'off site' employment to the people. This would be doubly-blessed because of building problems in the developing countries, can be substained without putting pressure on any of the scarce resources, including foreign exchange. In order to involve the policy decision makers and planners, an important point needs to be persuasively hammered that housing investment does not have lower productivity; this investment should be considered as long-term, similar to "irrigation" - which continue to yield service-goods to raise

living standards, over a long number of years, as compared to only about 8-10 year's survival rate in manufacturing industries where the capital plants depreciate or become obsolete in identical period. The use of non-monetary investment can come to rescue to some degree and offer a leverage in the construction of small houses of intermediate life-span, of only 10-15 years; at the initial stage they can boost the building activity and such houses will still be regarded 'conventional' or 'pucca' in the standards of the United Nations' housing levels living.

28. Fiscal measures that need to be unsheathed are the subsidy elements such as low rates or subsidised rates of interest on building loans given to low income households; the tax-reliefs may be granted to them; and they may be granted long amortisation periods for repayment with low 'down-payments' for ownership housing units. In case of rental housing, it will be necessary to devolve rental subsidies. Financial arrangements may call for establishment of Housing Mortgage and Mortgage Guaranteeing Banks/Associations.

29. Since building materials form major input in buildings in developing countries (in the range of 60-70 percent vis - a - vis only 45-50 percent in the developed countries) establishing of factories for such materials from indigenous raw materials to obviate famines of supply in regard to key building materials, and to check/kill the prevailing black marketing instincts amongst the traders/producers.

30. We have surplus in some regions of the country of skilled civil engineering labour and so also of the unskilled labour; and also areas, where the labour is in short supply. If we could/can supply building labour to Middle-East and African Countries there is no cause for worry to prepare more labour by opening more of institutions/schools for building trades.

31. For developing countries, it is recognised that the 'foreign savings' be attracted to the housing/building sector on 'soft terms' from the international development associations including that of the IBRD, USA, U.K. (Commonwealth Development Corporation), Denmark, Sweden, W. Germany, OPEC countries, Japan etc. on the terms analogous to that of IDA (the affiliate of I.B.R.D), on 50-60 years loan period, 10-20 years holiday for repayment, and interest rate of 3/4% to 1½% per annum).

SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'

(MARCH 20-21, 1978)

DEVELOPMENT CONTROL - SOME LEGAL ASPECTS

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DEVELOPMENT CONTROL - SOME LEGAL ASPECTS

M.K.Balachandran*

In a country like India where the citizen is guaranteed under a written Constitution certain fundamental rights which cannot be interfered with, save by authority of law, development control can be effectively exercised only with suitable legislative support. This point was amply illustrated by Mr. Justice Krishna Iyer in one of his articles on Law and the Plan where he observes: "The planner must realise that every economic project he has in mind involves interference with private rights, and so, must be justified by law. Every taxation measure that he contemplates must be in accordance with the procedure prescribed by law, every organization that he sets up, such as a public corporation, co-operative society, charitable society, commission or board has to be structured by the law so that its internal regulations and external relations may have its validity. Every policy decision for nationalisation or state monopoly, prohibition or control over, or diffusion of, private ownership, needs the authority of the legislation subject to the constitution." The Supreme Court was expressing the same view in differently when it said in one of its recent judgements: "Beneficial Schemes under welfare legislations have to be executed in accordance with law which creates the schemes. The end does not always justify the means and it is no answer that the object of the scheme is such that it justifies the implementer of the law to be absolutely oblivious of the manner of enforcement even though the manner is an integral part of the scheme, imposing under the law, restrictions on the rights of individuals". The point that is intended to be brought home is that the planner cannot ignore the law either in controlling haphazard development or in bringing about a planned development - the negative and positive aspects of development control.

The need for legislative support for development control was recognised in our country in the last quarter of the previous century when the Municipal Acts made provisions for various types of development control. These legislations which had their origin in India during the British period generally contain a number of provisions, though not very effective, for exercising control over the development of land and buildings so as to bring about orderly growth of cities and towns. The powers thus granted include regulations of

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construction activity, sub-division of lands, demolition of unauthorised constructions and dangerous structures, removal of encroachments and congested buildings, prevention and prohibition of public nuisances, regulation and abatement of offensive or dangerous trades and practices and taking various other measures to promote the safety, health, convenience and general welfare of the public.

There are provisions in the Municipal Acts to regulate sub-division of lands by laying down the conditions for the sanction of such sub-divisions. Similarly any erection or reerections of a building or the making of any addition, alterations or repair of any building, requires the sanction of the municipal body as per the mandatory provisions of the Act. Thus the control extends not only to the erection of new buildings but also to the reerection, repair or material alteration of any building. The building constructions are also subject to the provisions of the building bye-laws framed under the municipal enactments. These bye-laws generally specify the standards relating to the structural safety of the buildings, internal dimensions of the rooms, lighting and ventilation, open space to be left around the building etc. which are considered to be necessary to protect the health and safety of the individuals and that of the general public.

The Act also gives adequate powers to the authority to demolish any building constructed without sanction or in contravention of the conditions of the permission granted or to stop such constructions in case the construction is not completed. Some of the legislations even place restrictions on use of land and buildings by prohibiting the change of use of any land or building without the written permission of the authority under the Act. Similarly there are provisions for the framing of improvement schemes and rehousing schemes which involve the relaying out of any land comprised in the scheme, the construction or reconstruction of buildings, demolition of obstructive buildings or portions of buildings unfit for human habitation, re-distribution of sites belonging to owners of property comprised in the scheme etc.

Another important aspect of development control which the Municipal enactments generally deal with is environmental protection through the prevention and suppression of "nuisance" which are generally aimed at combating environmental pollution at the local level. Under these provisions, the municipality has wide powers including the right to refuse permission for the establishment of any factory or workshop in any area if it is satisfied that such establishment would be a "nuisance" to the inhabitants. It can, under the Act, even

prohibit certain trades in particular localities or require them to make structural alterations so as to prevent them from creating pollution problems.

It may appear from the brief account given above that the municipal law has all-embracing provisions for proper exercise of development control, but the picture is not as bright as one would expect it to be. Except in the case of some major municipal ~~operations~~, many of these provisions have not been generally invoked by the municipal bodies because of various reasons, such as lack of resources, personnel, technical know-how etc. It may also be pointed out here that the local government system in India came into being at a time when the rate of growth of urbanization and industrialization was not that alarming. Cities and towns were small and manageable and as such the municipal bodies were mainly concerned with the task of providing certain basic amenities to the local inhabitants along with certain regulatory functions like building regulations, abatement of nuisance etc. Naturally, therefore, they were not playing any prominent role in the development activities. The obvious result was haphazard and unplanned development resulting in congestion, slums, squatting and abuse of land.

The inadequacy of the municipal law and the indifferent and casual enforcement of the available provisions paved the way for the enactment of Improvement Trust Acts with the object of preparing improvement schemes for specific areas indicating the use and reuse of land including land acquisition, redevelopment and disposal. Their functions, however, were limited, but compared to municipal bodies their jurisdictions were wider in the sense that they were not confined to the administrative boundaries of the municipal bodies and could be extended to include peripheral areas also. The powers of regulations, control and implementation of any scheme of development and redevelopment were vested in the Trust even if the scheme related to an area within the municipality. The Improvement Trusts constituted under these Acts prepared action-programmes for specific areas without any conceptions of the overall plan and development requirements of the city as a whole.

Along with the Trust Acts, some of the states had enacted Town Planning Legislations providing for the preparation of Town Planning schemes and in certain cases for master plans for towns and cities. These legislations provided for additional powers to planning authorities including urban local bodies for the preparation and enforcement of various planning schemes and development programmes.

Later the Town and country Planning Organization of the Government of India formulated the Model Town and Country Planning Law with a view to encourage the making of planning legislations by the states on more or less a uniform pattern and some of the states have since revised the existing legislations in the light of the model law.

The need for regional planning with appropriate legislative support was first put into practice by the state of Maharashtra through the enactment of Maharashtra Regional and Town Planning Act, 1966. This Act was the outcome of the realisation that the preparation of development plans for areas confined within the municipal limits would not meet the problems of urban development which usually spilled over beyond municipal limits. The Act made provisions for planning and development and use of land on a regional basis and for the constitution of Regional Planning Boards and for the creation of New Town Development Authorities. This was followed by similar enactments in other states also. Thus apart from the Maharashtra Act, the Tamil Nadu Town and Country Planning Act, 1972, the M.P. Town Planning Act, 1974 etc. provided for the preparations of regional plans also along with the master plans and town planning schemes.

The recent trend in development control through the creation of Development Authorities charged with both planning and development functions started with the establishment of the Delhi Development Authority under the Delhi Development Authority Act, 1957. At present many states have similar type of legislations, the latest being the Gujarat Town Planning and Urban Development Act, 1976 which provides for the establishment of Area Development Authorities and Urban Development Authorities.

Apart from the various types of planning laws mentioned above, several other legislations dealing with one or other aspect of development control having limited functions and jurisdictions are in existence in a number of states. These include, slum clearance and Improvement Board Act, Housing Board Act, Building Repairs and Reconstruction Board Act, Regulation of Building Operations Act, Periphery/Ribbon Development Control Act, Water Pollution Control Act, Urban Land Ceiling Act, Urban Art Commission Acts etc. In the state of Maharashtra the laws relating to housing, repairing and reconstructing dangerous buildings and carrying out improvement works in slum areas have been consolidated into one single law known as the Maharashtra Housing and Area Development Act, 1976. It may be worth mentioning here that

even such innocuous looking legislation as the Maharashtra (urban Areas) Preservation of Trees Act, 1975 has provisions which exercise indirect control over development activities. This Act provides for the preservation of trees in urban areas, and the establishment of a Tree Authority and appoint of Tree Officers for carrying out the object of the Act, provides that permission for development of land can be granted only with the approval and subject to the conditions, if any, imposed by the Tree Officer in regard to the preservation and plantation of trees on such land.

The above survey indicates that there are more than enough laws for exercising control over development in one way or the other. However the enforcement of development control is marginal because many of these legislations are inadequately or unrealistically designed and are found to be deficient in effectively dealing with haphazard urban growth and in bringing about a planned development. Some of the defects and deficiencies in the existing legislations are discussed below:

As already mentioned, in many of the states there exists a large number of legislations dealing with one or the other aspect of development control, each legislation having been enacted with a view to meet the requirements of particular situations or problems without taking into consideration its impact on the working of the organizations/agencies functioning under other legislations already existing in the area. In other words, the approach has been piece-meal and a sort of "immediate-problem-solving-oriented" approach, in the sense that it is more often than not directed towards getting immediate relief without bothering about its impact on other legislations. This in its turn has resulted in a multiplicity of authorities/organizations in the same area dealing with development control having sometimes overlapping functions and jurisdictions. The victim always is the ordinary citizen who has to pass through a circuitous process say, in getting his building plan sanctioned resulting in practical difficulties and sometimes even harassment. Now authorities and organizations are being set up on adhoc basis without caring much about their repercussions on the already existing ones creating problems of conflicts and coordination.

Taking particular cases, it may be pointed out that the municipal law which contains a number of provisions for dealing with development control and which had its origin almost a century ago is certainly archaic and out-moded and cannot be used effectively for development control. This is true of the powers under the Act to control subdivision of land, building constructions and environmental protection. And it is equally true in the case of building bye-laws which were designed, in many cases, at a time when the science had not developed. New housing requirements, new building techniques and new land uses demand a new approach in designing the building bye-laws. The existing bye-laws, it has been rightly pointed out, are more often than not "specification oriented" and not "performance oriented". The National Building Code published by the Indian Standards Institution has been made a good attempt to unify the building regulations throughout the country and has acted as a model for some of the local authorities in revising their bye-laws and bringing them in tune with modern conditions.

Another defect of the existing bye-laws is that in many cases it is more oriented towards the need of the rich. For instance the set-back etc. laid down in certain areas are excessive and cannot be meant to subserve the common man. It is pointed out that even the National Building Code does not cater to the housing requirements of the low-income groups and the economically weaker section of the people. This defect has to be rectified.

Yet another draw back of the existing bye-laws is that they are restriction oriented. In our country where public housing programme is well-high impossible and where demand for housing is ever increasing, the rules and regulations regarding house constructions should be flexible enough to facilitate construction activities with minimum conditions. Further, bye-laws should have a multiple approach for different sections of the people in the same locality and for different areas and should take into consideration the financial and other limitations of the individuals.

Regarding Town Planning legislations also it may be mentioned that they were first introduced in the country during British rule and as such were mainly based on the British pattern prevalent at that time. After independence many of these legislations were enacted, but still were, broadly speaking only an elaboration of the old British law. Obviously therefore many of these legislations failed in the field in their attempt to effectively control haphazard development for

instance in many cases, the law does not provide for the prevention of unauthorized development during the period between the notification declaring the intention to prepare the development plans and the actual preparation of the plan. By the time the plan is prepared and finalized a lot of haphazard development would have already taken place thereby making the implementation of the plan difficult if not impossible. This loop-hole in the law has to be plugged.

Another deficiency which is noticed in many legislations is that they do not provide for control of the peripheral growth or ribbon development, even though some states have separate legislations which provide for negative control at the periphery without any regular machinery. It is gratifying to note that in some of the recent legislations attempt is made to deal with this situation

Another deficiency noticed in many legislations is that the powers, responsibilities and resources of the organizations are not properly matched so as to enable them to deal with the development control.

It may be pointed out here that acquisition of land presents the first serious problem in the implementation of development schemes. The majority of the planning legislations are still dependent on the Land Acquisition Act of 1894, under which the procedure is tardy and time-consuming and the compensation to be paid is the just equivalent of the market value. Some of the town planning legislations have modified the provisions of the original Land Acquisition Act to facilitate speedy acquisition at lesser costs but they have failed in the court on the ground of "unjust discrimination". The feasibility of a separate Acquisition Law for urban development may be worth discussing.

It may be worth mentioning here that the state of Maharashtra has taken the lead in consolidating the laws relating to housing, repairing and reconstructing dangerous building and carrying out improvement works in slum areas.

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It is, infact, a consolidation of the Housing Board Act, the Bombay Building and Reconstruction Board Act the Maharashtra Slum Improvement Board Act and the Nagpur Improvement Trust Act which stand repealed under the new Maharashtra Housing and Area Development Act, 1976. This is a healthy attempt to deal with the evil effects of multiplicity of legislations in the area of development control and can be attempted in other states in our country.

SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'

(MARCH 20 - 21, 1978)

RELOCATION OF SQUATTERS IN DELHI:
QUEST FOR A POLICY

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Squatters' settlements have become a common feature of the urban landscape especially in the large towns and metropolitan cities. For the teeming rural millions living below the poverty line, major urban centres present a view of an oasis where they can have respite from hunger, disease and ignorance. The poorest of the poor, therefore, get attracted to the urban area in search of bread and subsistence. Delhi, in particular, has come to be associated with squatters not because they were recently bulldozed and 'relocated' but because of the sheer magnitude of the problem of squatters as also its phenomenal growth in the city of Delhi. They have posed serious challenge for the urban plan administrators who in a zeal to clear the sites of the 'ugly structures' and to 'beautify' the city have adopted their own ingenious schemes from time to time. Recently during the national emergency about 5 lakhs squatter population was relocated in 2 relocation colonies after controversial demolition operations.

The paper seeks to search a coherent policy, if any, for the relocation and rehabilitation of squatters in Delhi. This quest for a policy proceeds by looking at the relevant proposals of the Master Plan documents, official policy pronouncements as also recommendations of various committees and expert groups from time to time. The implementation of relocation schemes is then briefly reviewed for comprehending the extent to which the

implementation was geared to the policy pronouncements . Subsequently, it also examines the possible policy options for a proper framework of solution to this growing problem. However, this is preceded by an advocacy of positive aspects of squatters as an element of city life and its economy.

The squatters are generally looked upon with contempt, as something undesirable and to be avoided from the cityscape. The squatter settlements are regarded as "plague spots in any urban setting... areas of insanitation, crime and vice, which are both a disgrace and a source of danger to the city as a whole".¹ Such observations lose its force when viewed in another context. Squatters are in fact a positive element of city's life and economy. They provide the city with workers in various sectors of the city's economy, they help in 'servicing' the city, add to the productivity of the city and above all the immigration of prospective squatters promotes enterprise, drive, and enthusiasm among the economically weaker sections and leads to a process of modernization and social advancements. The squatters get an opportunity of

1. Delhi Development Authority (D.D.A.), Work Studies Relating to the Preparation of the Master Plan for Delhi, Vol.I (bears no date), p. 223.

self advancement from the below-subsistence to subsistence and to still higher aspirations. And this they achieve without any institutional assistance. This is why they are regarded " a formidable content of creative energy, leadership and organisation, an unequivocal desire to rise above the past....."2.

Coming from rural areas, the squatters bring with them rural traits, habits, values and ways of living. Being confronted to new urban setting and a new environment, these transitionals are required to adjust their attitude and behaviour according to the new setting at a short notice. They undergo this process of modernisation smoothly and this is communicated further to kith and kin. This is a great extent add to the pace of economic and political development.³

The problem of slums and squatter settlements has to be seen in the backdrop of rubanisation. In the developing countries the emergence of such settlements are essentially

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2. Majumdar, T.K. "The Problem of Squatter Settlements, A Sociological Perspective", Social Scientists Association, T. & C.P.O., New Delhi, April, 1974.
 3. Laquian, Aprodicio A., Slums are for People, The Barrio Magsaysay Pilot Project in Philippines Urban Community Development, East-West Centre Press, Honolulu, 1971, p.6.

related with the process of urbanization and urban growth so much so that it has started to be acknowledged as a stage in the process of urbanization. A concomitant feature of urban growth especially in the major urban agglomerations is that immigration inflates the city size but the planning and administration system of the cities becomes incapable of absorbing the ever increasing population. The reasons of migration from rural areas are well known. As the rural areas are still characterised by abject poverty, the migrants have to choose between only two alternatives - home without job in their native home to jobs without proper home in cities.⁴ They chose the latter and flock to the urban areas which provide them jobs to earn livelihood. The phenomenon of squatters is, therefore, said to be an index of "socio-economic dislocation arising from the nature of growth process in the developing countries."⁵

Having migrated to the urban areas the economically weaker sections accept whatever accommodation is available or can be created quickly on open spaces which are unusable or are lying unused. Thus, they create their own housing and meet

4. Bose, Ashish, "Why People Migrate to Cities," Yojna, Republic Day Annual Number, January, 16, 1965, pp.25 ff.

5. Laquian, A.A., op. cit. p.5.

the need for a shelter without much ado and any institutional help. They create altogether a new informal settlement. Perhaps this is why Dwyer calls it "Spontaneous settlements".⁶

The problem of spontaneous settlements is not unique to Delhi and other metropolitan cities of India. It is universal throughout the Third World Countries. Manila's one-third of the metropolitan area population consists of squatters and slum dwellers. In 1961, about 25 per cent of Djakarta's Population was made up of squatters and slum dwellers. In 1967 one lakh people in Kwala Lumpur lived in slums and squatter settlements. Singapore had about 26 per cent of its population as slum dwellers and squatters.⁷ In India itself it is estimated that as much as 5 million people out of a total population of 19 million of Delhi, Bombay, Madras and Calcutta live in squatters' settlements. About 15 to 20 per cent of the population of cities with a population of 3 lakhs

6. Dwyer, D.J., People and Housing in the Third World Countries, Perspectives on the Problem of Spontaneous Settlements, Longman, London, New Yorks 1975, p.3.

7. Laquian, A.A., op. cit., p.4.

and more is estimated to be living in such settlements.⁸

In Delhi, according to a comprehensive survey conducted by the T.C.P.O. in 1973, there were 141, 755 squatter families residing in 1373 Jhuggi Jhonpri clusters of different sizes.⁹ Of this, 123,536 or 87 per cent were located in urban Delhi. In 1951 Delhi had only about 12,749 Jhuggies. The increase between 1951 and 1973 was thus more than ten times. The squatter settlements were found to be growing at an annual rate of 12 per cent which is more than twice the growth of population of most cities. The population of households living in squatter's settlements is found to be increasing ever since 1951. In 1951 those living in Jhuggis formed only 3.89 per cent of the total urban household. This increased to 8.30 per cent in 1961 and to 14.66 per cent and 16.62 per cent in 1971 and 1973 respectively.¹⁰

8. Town & Country Planning Organisation, Jhuggi Jhonpary settlements in Delhi, A Sociological study of Low income Migrant Communities, Part II, April, 1975, p.1.

9. T. & C.P.O. Juggi Jhnopri settlements in Delhi, Part I, October, 1973, p.11.

10. Ibid, p.20.

It is worth noting that more than two-third of Delhi's urban population is residing in sub-standard condition.¹¹ About 13.2 lakh people reside in area legally notified as slums; 5.2 lakh people are living in unauthorised colonies; 2.5 lakh persons are residing in villages engulfed by the extension of urban limits and known as urban villages. Before the relocation operations during the national emergency about 1.5 lakh families or about 6 lakh persons were residing in the Jhuggis and Jhonpries most of whom have been resettled in 27 relocation colonies which are no better than original clusters in matters of amenities and services. To this must be added about 2.5 lakh persons who were earlier resettled in 16 J.J. Colonies. Thus about 29.4 lakh population of urban Delhi is residing as second grade citizen.

Before relocation the squatters were living as very close knit social groups in the various J.J. clusters along with their kins, caste and cultural groups. This was why the anonymity of city life was never a problem for them. They helped each other during distress and surmounted any calamity as a group. The rate of unemployment was generally found to be almost zero in the J.J. clusters.

11. Shrivastava, P.P., "A New Deal for the slum Dwellers", Journal of Institute of Town Planning, India, September, 1974, No. 82, pp.11-23.

Mostly these people had created Jhuggis near the place of work so that they did not have any problem of transport.

II

Recently, during the emergency the squatters' clusters were demolished and were relocated in 27 newly developed colonies on the peripheries of urban Delhi. The relocation operations of the emergency regime have assured controversy. It was one of the main issues in the last national elections for the Lok Sabha. The official thinking during those days was that it was not demolition but "rehabilitation" in better urban milieu. It was also latent in the thinking that squatters, being the encroachers on public land, do not have any legitimate claim for permanent stay on the sites occupied by them. Relocation of squatters on the peripheries beyond the urban limits of 1981 was justified by citing similar precedence. In order to identify a coherent policy, if any, for the resettlement of squatters in Delhi let us look at how the schemes of relocation have been conceived and implemented from time to time.

Squatters and the Delhi Master Plan:

At the time of formulation of the Delhi Master Plan, There were about 50,000 families living in squatter settlements (the Plan called it 'bustis'). Altogether 13 sites had been selected by the Municipal Corporation of Delhi (MCD) for

resettling the squatters. These sites were carefully selected keeping in view the distance factor. The squatters were, therefore, generally relocated at the nearby sites, the site in the north of Rajpur Village, for example, was to accommodate the squatters from the nearby Subji Mundi Zone and the site near the Naraina village was to receive squatters from Patel Nagar and Karolbagh.¹² When the Master Plan was being prepared a number of resettlement schemes were already on the anvil. The Master Plan, therefore, did not further elaborate the sites to be utilised for relocation purposes in future. The Plan also did not visualise the anticipated rate of increase of squatters in Delhi at various points of time. This was perhaps the major lacuna of the Plan that it did not visualise the magnitude of economically weaker sections of the society finding its way to Delhi.

However, the Plan suggested a general policy frame to be kept in view while planning for relocation of squatters. The Plan documents suggested a broad framework for the solution of the problem of squatters by linking it with the restructuring of urban environment in a way that would equalise the living conditions and community facilities between different areas and socio-economic groups-including the squatters.¹³

12. D.D.A., work studies, op. cit. p. 217

13. Ibid, see preamble.

The Interim General Plan for Delhi itself had suggested to rehouse the slum dwellers as near as possible to their existing work centres or to create new work centres near the proposed rehousing areas. In my scheme of rehousing it suggested to take utmost care in maintaining the existing community and social patterns of the people."¹⁴ The work studies of the Delhi Master Plan adopted a pragmatic approach when it observed that "due to economic backwardness a total clearance of the slum dwellers and bustis is not feasible in the near future - at least for the next two decades"¹⁵ (emphasis added). It, therefore, suggested to step up the construction of low cost housing at least to prevent the formation of new slums. 1,10,000 dwelling units were suggested to be constructed for them (50,000 for squatters and 60,000 for slum dwellers). It was also suggested to develop the resettlement colonies forming part of larger neighbourhoods having an inter mixture of tower middle and middle income groups.

It was also suggested to earmark "reasonable areas" in several zones for the low income groups migrating to Delhi. "These areas should not be on the periphery of the city but should be well distributed so that they are not too far away from the work places"¹⁶ (emphasis added) It again

14. Town Planning Organisation, Interim General Plan for Greater Delhi, 1956, pp. 52-53.

15. D.D.A., work studies, op. cit., p. 198.

16. Ibid, p. 217.

repeated that the resettlement schemes should not be segregated in any way.

The Draft Master Plan even suggested to issue directives to all the colonisers and also the government departments engaged in building activity to reserve 25 per cent of the new housing for the rehabilitation of slum dwellers displaced as a result of clearance operations.¹⁷ A recommendation of major importance in the Plan document was to relax the building bye-laws permitting not only sub-standard development but also enabling construction of low cost cheap houses/¹⁸ which was recognised as the "Graving need of the day". The cost construction of the proposed massive low cost housing was proposed to be subsidised in a most ingenious way. The subsidy was to depend on the proportion of "Sweet equity" provided by the proposed occupant.*

17, D.D.A., Draft Master Plan for Delhi, Vol. I, P.112

18. D.D.A., work studies, op. cit., p. 218

* By contributing 25 per cent of the labour himself the sweat equity of the proposed occupant will amount to 15 per cent of the total value of the project as labour represents approximately 60 per cent of the total cost of the project.

It is evident that the Plan did not spell out the schemes in detail. It also did not specific proposals for the anticipated growth of squatters in Delhi. Nevertheless, it did provide direction to solve the problems of squatters' settlements. The authors of the Delhi Plan appreciated the existence of squatters, their low economic capacity and their urge of seeking kinship ties. It was this application which led them to suggest not to disturb their community life and ideal work and home relationship which itself happens to be the core objective of the whole plan document.

III The Relocation of Squatters:

Having discussed the guidelines as laid down in the Plan let us now turn to the implementation of the relocation schemes.

The relocation of the Juggi Jhopris dwellers known as the J.J. Removal schemes was initiated in 1960 on the basis of recommendations of a Committee constituted by the Ministry of Home Affairs, Government of India. Initially the scheme envisaged to allot 80 sq. yds. develop plots having a latrine, a water tap and a platform to each squatter family on a lease of 99 years. The cost of the land was subsidised up to 50 per cent or those with a monthly income of Rs. 250. The cost was envisaged to be paid in instalments in ten years. The number of squatter families was then estimated to be 50,000 and

the entire scheme was to be implemented within two years at an estimated expenditure of Rs. 4.33 crores. A special census was also conducted in 1960 and the squatters were issued a census slip which entitled them to be an "eligible" squatter having a claim for the allotment of a plot of 80 sq. yds. plot.

Implicit in this policy was that those who squat on public land subsequently will be dispersed and will not be allotted any alternative site. However, it was later on found that the allotment of a plot of land on ownership basis encouraged benami sales. Moreover, majority of the squatters were unable to pay the instalments of the cost of land. The scheme was, therefore, revised in 1962 and it was decided to dispense with the element of ownership. Of the 50,000 squatting families, about 5000 squatter families were estimated to afford the rent for the tenements. Another 20,000 were estimated to afford the rent of the developed plots and hence they were to get developed plots. The rent was again subsidised up to 50 per cent for those with an income of Rs. 250 per month. The remaining 25,000 squatter families were to get only 25 sq. yards plots because of their relatively weak economic capacity. They were to pay a subsidised rent of Rs. 3.50 per month plus Rs. 1 as conservancy charge. Pending construction of tenements all the

eligible squatter families were initially to be relocated on developed camping sites. The "ineligibles" were, however to be evicted and dispersed.

But things did not proceed well. Eligibles and ineligibles got mixed up and it became a problem to distinguish them at the time of clearance. Hence the scheme was again revised in 1964. Now all the squatters were to be given a plot of 25 sq. yard only. The ineligibles (post 1960 squatters) were to be penalised by resettling them in far off localities and at full rent.

By 1967 only about 16,000 squatter families should be resettled. The union Ministry of Works and Housing appointed a study group in 1967 to review the scheme and suggest afresh the measures to tackle the problem. According to the study group there were about 66,000 families who squatted after 1960. On the recommendation of the study group the government stopped the construction of tenements and also the allotment of 80 sq. yard plot even to the eligible squatters. The study group did not favour to allot any plot of land to the ineligibles as it was thought to encourage squatting on public land. However, in view of "human considerations involved" it was recommended to remove them on the peripheries of urban Delhi. The government accordingly decided in 1970 to remove the post 1960 squatters on the peripheries and the scale of services and amenities

was scaled down for them. They were also required to pay full unsubsidised rent of Rs. 8 per month plus Re. 1 as service charge.

Between 1960 to April 1975 (i.e. before the national emergency) about 53,317 squatter families were relocated in 18 J.J. Colonies. Of this, 3,667 were allotted 80 sq. yard plots, 3,560 were given two room tenements and the remaining 46,900 were accommodated on 25 sq. yard plot each. This involved an expenditure of Rs. 13 crores. Of the 18 J.J. Colonies developed during this period, three colonies (Tigiri, Hastal and Nangloi) were developed by the MCD during 1966-68 outside the Master Plan urban limit of 1981.¹⁹

Relocation During Emergency:

Demolition of J.J. clusters continued and got accelerated especially during emergency. Before this demolition of J.J. clusters and its relocation was undertaken rather cautiously on a limited scale and the official thinking seemed to have settled round the idea of improving the environment of the clusters. In view of huge expenditure involved in clearance and relocation of about 1.5 lakh squatter families it was thought to improve their living conditions. The scheme of Environmental improvement

19. D.D.A., Resettlement Colonies - Review of the Problems (Mimeographed), June, 1977, p. 9

was therefore, started in the Fourth Five Year Plan in 1972-73. Financial assistance was provided for supply of taped water hand pumps, community bath and sanitary latrines, sewers, drainage, street lighting and improvement of open spaces. The scheme was introduced in the slums and J.J. clusters which were not intended to be cleared in the next ten years. In Delhi the scheme was adopted as a part of the Minimum needs Programme of the Fifth Plan.

The demolition operation in Delhi, thus, started even when the Environmental Improvement Programme was well in operation.* And this was done to place the squatter families in immense hardships not because undergoing the family planning operation was a precondition for alternative allotment of 25 sq. yards plots but because the squatters settled in west were sent to east; those in the north to South and vice versa. This completely disrupted the work-home name relation of the economically weaker sections of society. Now, of course, they have been permitted to interchange the plot. The pace of demolition during emergency can be judged from the table given below:

* Commitment to this Programme can be judged by citing an instance of a J.J. cluster located in Chanakya Puri. The NDMC had prepared the programme for environmental improvement and had budgetary allocation for this. Even when asked by the D.D.A. that the cluster is to be removed and money should not be spent on this, the improvement programme continued unabated.

Demolition by various agencies

Period	Structures demolished by			
	DDA	MCD	NDMC	Total
<u>Pre - Emergency Period</u>				
1973	50	320	5	375
1974	680	354	25	1059
1975 (Till June)	190	149	27	366
Total	920	823	57	1800
<u>During Emergency</u>				
1975	35767	4689	796	41252
1976	94652	4013	408	99073
1977 (Till 23.3.77)	7545	96	--	7641
Total	137964	8798	1204	147966

Source: Case history of demolition, Shah Commission,
The Hindustan Times, December 14, 1977.

As many as 27 new resettlement colonies were developed by the DDA covering an area 968.07 hectares having a total number of 148,262 plots. Of these five colonies namely Gokalpuri, Khichripur, Sultanpuri, Kalyanpuri and Trilokpuri having an area of 335.58 hectares were developed outside the urban limit of 1981 whose designated land use is green and marshy land. The land use of these areas is yet to be changed

to residential * Land was forcefully occupied for the development of a few colonies (Mangolpuri, Sultanpuri) without notifying the land for acquisition. Even now the land for colonies developed outside the urban fringe is yet to be formally acquired. It is interesting to note that the land use of three colonies (Tegri, Hastal and Mangloi) developed by the MCD during 1966 -68 has not been changed as yet.

It is reported that the DDA spent about Rs. 13 crores on the relocation Scheme. It is not known whether this includes or excludes the amount spent on demolition and transportation of the squatter families and their belongings to the new sites. In order to meet expenditure on the scheme the general practice was to spend much in excess of the planned outlay and to get it enhanced and adjusted later on. The original outlay for the year 1975-76 was provided as Rs. 100 lakhs. This was modified to Rs. 250 lakhs. The actual expenditure was, however, Rs. 321.08 lakhs. Likewise, the plan outlay of Rs. 200 lakhs for 1976 - 77 was modified to Rs. 710 lakhs but the actual expenditure incurred was

* The "green belt" around the 1981 urban limit was proposed by the Master Plan for Delhi to "contain the urban sprawl" and it was to be "inviolable".

Rs. 919.36 lakhs. Thus though the Planning Commission approved an outlay of Rs. 1397 lakhs, for the J.J. Removal Scheme for the Fifth Plan, as much as Rs. 1331.42 lakhs was already spent during the first three years of the Plan by the DDA.

In spite of this huge expenditure the level of services and amenities in the relocation colonies is deplorable. According to DDA's own estimate an additional amount of about Rs. 56 crores is required to remove deficiencies and provide adequate services and facilities.²⁰

IV

Quest for a Policy :

It is evident from the policy pronouncements in the Master Plan documents and the relocation of squatters from time to time that there does not exist any coherent and definite policy for the squatters in Delhi. The schemes so far implemented are characterised by an attitude of ambivalence.. The policy shifting back and fourth from time to time. The Delhi Plan, though did not visualise the magnitude of this problem and did not suggest specific programme for the rehabilitation of squatters, it never theless give some useful

20. Ibid, pp. 18 - 19

guidelines and the working out of details were perhaps left for the concerned action' agencies. But these seem to have been obliterated in actual implementation.

A review of the Master Plan by the Town and Country Planning Organisation in 1973 had suggested to give a new orientation to the low cost housing programme which could take care of squatters. As recently as 1975 a Working Group of the Union Ministry of Works and Housing reporting on the mid term appraisal of the Delhi Master Plan and its implementation observed that the removal of "J.J. clusters from all areas is neither possible nor desirable under the prevailing constraints."²¹ It, therefore, suggested to improve the community life in the existing clusters itself. It again reiterated the Master Plan suggestion for developing "composite colonies" by reserving 12 to 15 per cent of total land for the housing of Economically Weaker Sections (EWS) of the society. But these could not have any dent on the plan administrators and policy makers.

The ambivalence of the official attitude can be brought into sharp focus by citing only two examples. In 1971 the then president of the NDMC decided to demolish some

21. First Report of the Working Group on Mid-Term Appraisal of the Delhi Master Plan and its Implementation (Mimeographed), Ministry of Works and Housing, Government of India, p.22.

newly constructed jhuggis in Chanaky Puri. For this the permission of the then L.G. as also of the Union Minister of Works and Housing had been duly obtained. But when the demolition actually started, it had to stop mid way at the instance of the then Prime Minister who instructed to this effect from Simla. Again in February, 1973 the MCD started removing the squatters from the berms of Kingsway Camp Board Road to a nearby site near T.B.Hospital. The operation had to stop as no less a person than the PM. rushed to the site and intervened. A general direction was then issued that henceforth there would not be any demolition in Delhi without prior approval of the P.M.

But all the previous thinking of the experts, planners and expert groups gave way to the decision of the "higher authorities"²² and a large scale demolition started in Delhi. In fact ever since the introduction of the J.J. Removal Scheme in 1960, there is not found to have been any definite policy in this regard. The scheme started with much fanfare having excessive standard of 80 sq. plots and built up tenements to be allotted to the squatter families.* The idea of allotting tenements was then dropped.

22. D.D.A., Resettlement Colonies, op. cit., p.6

* Recently D.D.A. decided to allot 80 sq. yds. developed plots to individuals whose annual income is less than Rs. 12,000 and there was a scramble for it

and instead of permanent solution a recourse was taken only to temporary relocation of eligibles at the camping sites where the squatters were not permitted to put up any permanent structures. Subsequently the distinction between eligibles and ineligibles was also done away with and only a plot of 25 sq. yds. was given to both. Of Course, the ineligibles were put to more hardships as penalty for squatting.

It is evident that no coherent policy existed even during the normal times. The aberration from the policies of the Delhi Plan started right in 1967. But even then a lip service was given to the "humanitarian" aspect in dislodging the weakest of the lowest income group by removing them to the peripheries. It is worth noting that the government of India accepted the recommendation of the study group regarding the shifting of ineligibles on the urban fringe only in 1970. But the MCD developed three colonies on the peripheries during 1966-68. It would be relevant to quote from a study conducted by sociological experts appointed by the government of India before the emergency:

"To conclude a symptomatic review of the Jhuggi-Jhonpuri Removal Scheme, it can be stated that it was purely based on physical-cum-engineering approach of "bulldozing" the exist bustis.... and transplanting them in relocated colonies and communities. This was found

to be of limited utility not only in preventing future growth of such settlements but was also rejected by a large proportion of the population for which it was intended".

A major lacuna with the J.J. Removal scheme in Delhi has been its narrow scope of clearing and relocating the squatters. Consequently the implementation has simply been changing the location of squatters. It has not made any effort to provide new massive low cost housing which could integrate the squatters as part of neighbourhoods. The existence of squatters in metropolitan cities as also their immigration can not be ignored. This has now become an 'urban imperative'. Exodus of the economically weaker sections to Delhi can not be stopped in any way. Earlier in 1967 the study group wanted to make squatting a cognisable crime by either amending the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 or by enacting a new legislation. It had also sounded the feasibility of amending Section 441 of the I.P.C. for imposing penalties on squatters. But none of these alternatives was found to be feasible by the Union Ministry of Law.

The squatter are, therefore, going to continue as a part of metropolitan life. This requires to shake off the existing ad-hocism. In all the 16 J.J. Colonies developed before the

24. Quoted from the Report Presented to convention on problems of Housing and Employment (in the context of the Delhi Master Plan), Delhi State Council, C.P.I., May of 1976 p.8

emergency and 27 colonies developed during emergency the squatters are not permitted to put up permanent structures as these are even now "camping sites".

Any permanent solution to the problem of squatters has to be initiated in the wider region of Delhi-which sends the squatters to Delhi. Unfortunately even after more than a decade and half of planned growth under the Master Plan the development of Ring Towns as also the National Capital Region has not made any headway. Recent thinking on this indicates a sliding back from the earlier framework for development of the region. A long term solution to the problem of squatters in Delhi, therefore, has to provide enough jobs through development of the Ring Towns. The D.D.A. now proposes to earmark sites for the squatters in the Ring Towns. This is yet another example of unrealistic policy. As the Ring Towns have not acquired sound and diversified economic base the squatters if shifted will not be able to get any job.

A coherent policy for the squatters in Delhi should give due importance to the programme of massive low cost housing. Here also unfortunately, the housing programme as also the scheme of large scale acquisition, development and disposal of land has taken an elitist view ignoring the needs of the low income and EWS.

Planning must be reoriented to the changing socio-economic composition of the society. What is important is provision of new housing not demolition. In this context it is worth mentioning that of the total number of 1101 J.J. Clusters in urban areas before the emergency 29 per cent of the clusters were located on lands designated as residential. A good many of them were situated on hillocks and undulated lands. These clusters could well have been improved on the existing sites.

As noted earlier, the policy for squatters should give a reorientation to the low cost housing. This can be made possible by allocating a proportion of land for low cost housing. Recently the DDA introduced allotment of 36 sq. meter plots by draw of lots at a price of Rs. 2000 each. This became quite popular. The scheme should be tried in all the residential colonies to be developed in future by making terms attractive and providing the necessary funds for construction.

To sum up, the ambivalent attitude towards the squatters and existing ad-hoc policy must give way to sound coherent policy. Such a policy should recognise the existence and positive role of squatters in city's economy. The problem has to be attacked essentially at the regional level. It should also give new look

to the policy of housing, land development and disposal. In view of growing magnitude of this problem the feasibility of creating transitional way stations for the necessary training and vocational guidance of the rural migrants as tried in Philippines can also be examined. The existing Master Plan for Delhi is going to complete its span in 1981 and work on preparation of a second Plan is already afoot. The new Plan should give serious thought to this problem and should provide concrete proposals to be adopted in future. Any exercise for developing a coherent policy for the solution of problem of swatting should, to quote Laquian, should "hasten the transition of both the squatters and slum dwellers as persons - and the slum and squatter areas as communities - from their present disruptive state to a more developmental level".

SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'

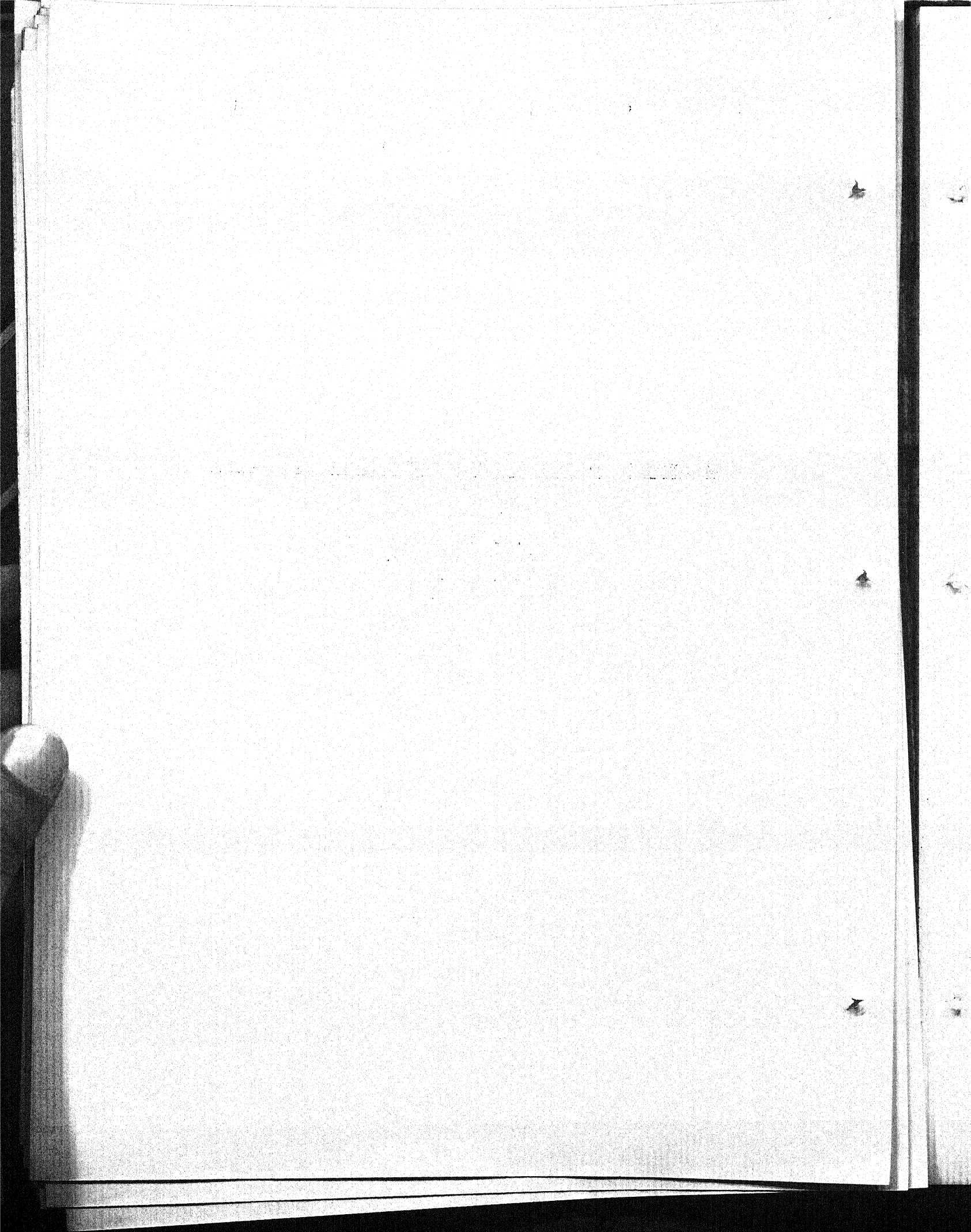
(MARCH 20 - 21, 1978)

DEVELOPMENT CONTROL THROUGH MIXED LAND USE ZONING

by

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DEVELOPMENT CONTROL THROUGH MIXED LAND USE ZONING

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Development plans in India have hitherto been based on segregated land use zoning wherein residential, commercial, industrial, recreational, agricultural and other use zones are kept distinct from each other - the objective being to create healthy environments. At present we have over 550 development plans for urban areas in the country of which a little over 350 are statutory in nature - all based on the principle of segregated land use zoning. These plans have not proved to be good implementation documents and generally they have been criticised as being elitist in nature. By this is meant that they have ignored the informal sector who comprise in many cases of as much as 80 per cent of the population of cities and towns and have difficulty in paying for a bus fare and a rent for a shelter and are accordingly unable to travel long distances to work from pretty residential environments to well-planned employment centres.

2. Thus despite best efforts within the economic resources of the country these groups make the plan ineffective by violating all the concepts of planned growth through squatting and other violations of the plan. One way therefore of mitigating these inevitable violations is by changing the concept of

segregated land uses to mixed land uses wherein work and home are adjacent to each other to the extent possible and where the target group is no longer the elite but the large informal sector. From now on, planning would perforce have to emerge with this target group in view and in such a manner that their environment is catered for and improved gradually through modest standards, shelters, means of transport and above all employment within the neighbourhood. It is only through such an objective that control of urban building activities should be viewed whether it be of specifying land use control for old built up areas, building bulk, appearance, shape or the enforcement machinery required for development control. To help achieve such an objective, a model mixed land use zoning is attempted herein.

3. As implied above, it has become evident that during the last few years, zoning of land use as practised in India has been misfit under the conditions obtaining in Indian cities and towns. This is not only for India but also for other cities in the developing countries of Asia and the Far East. To understand why this is a misfit, we may recall the background under which Zoning came to India.

4. Zoning has its origin in the United States of America. Even today, America does not believe in Master Plan and Development Plans but strictly believes in Zoning and most cities have Zoning Ordinances adopted under a State Law by the city.

Strangely, the Zoning Law was enacted to protect the interests of developers and real estate agents. When the realtors developed high income housing and next to them people built industries or slaughter houses, the land values came down and this got them worried; therefore, Zoning regulations were enacted to protect and stabilise land values. In fact it had no environmental objectives when it originated, but subsequently it assumed an environmental rationale.

5. Because of its origin, it was necessary to have exclusive Zoning i.e., one use for one zone and further, a superior-inferior grading for Zoning. The residential areas became the superior at one end of the scale while at the other end industries, contractors yards, slaughter houses, etc., became the inferior uses. It was also permitted for a superior use to be put into an inferior zone but not an inferior use in a superior zone - once again to protect property values.

6. Great Britain when it enacted its 1931 Town and Country Planning Law, it adopted zoning on the basis of an environmental rationale from the point of view of prevention of nuisance and hazardous nature of uses in residential areas. This had roots in sanitary bye-laws of the United Kingdom at that time. The Town Planning Act of United Kingdom subsequently tried progressively to introduce a good rationale in zoning and whatever is practised today is much more refined and well ordered to get a good and healthy environment but the roots being what they are, some of the earlier shortcomings have continued. In fact

the garden city movement was a strong reaction to the rigid zoning laws. The twentieth century neighbourhood planning concept adopted zoning to serve its own purpose but while doing so recognized that mixed zoning was unavoidable as in the case of neighbourhood commercial areas, service industries etc.

7. In India, we have adopted a combination of American and British practice which has unfortunately the shortcomings of both and the advantages of neither. Some attempt has been made to remove this exclusiveness in each area and an attempt has been made to tone down the superior - inferior grading but this still persists. Presently we have recognised that the superior-inferior grading in zoning is a mistake; industry can be located in a very well built residential colony and not even recognised as an industry because of the nature of its characteristics, performances and environmental treatment.

8. When technology has advanced sufficiently to see that industrial effluents can be properly treated and controlled, the mixture of land uses can no longer be considered undesirable. In fact, mixture of land uses is very necessary when you are thinking of work-home relationship. In India where there is large self-employment with people living and working in their houses, it is necessary to recognise that a home can also serve as a work place and perhaps should be designed as such. Similarly the commercial and services establishment are part of residential areas and therefore, will have to be built into them provided any adverse effect they have on environment is

appropriately taken care. However, the type of mixed development that now prevails in parts of Bombay, is not desirable because it promotes strip-shopping, reduces road efficiency, causes a lot of noise and hazardous to children playing, etc. But it will be possible to design a residential area with factories and commercial establishments within it so as to satisfy the environment requirements fully and at the same time achieve a more satisfactory living ethos suited to Indian conditions.

9. An attempt has now been made to draw up a new Model Zoning System which recognises basically the following:

- (i) Mixed land uses is aimed at and planned for so as to achieve living and working efficiency, optimise land use, eliminate heavy transport costs and bring about some gaiety and life in the neighbourhood;
- (ii) in mixing land uses, compatibility of adjacent land uses is carefully assessed and provided for so as to give flexibility;
- (iii) compatibility is largely dependent on performance characteristic of each use and their impact, adverse or otherwise, on adjacent or nearby land uses;

- - - - -

'Yadav'

- (iv) Noxious and hazardous uses are located in areas where they do the least harm.

10. With the aim being flexibility the proposed Model Land Use Zoning Regulations at the Annexure indicates only 5 zones i.e. predominatly Residential, predominantly Commercial, predominantly Industrial, Open Spaces and Parks and predominantly Agricultural. Also instead of specifying (i) use permitted; (ii) uses permitted after appeal and (iii) uses prohibited, what is now attempted is to specify only (i) uses prohibited and (ii) uses to be allowed after appeal in each of the above 5 zones. Thus uses not specified are considered to be compatible to each other. To support these use zones and use permissible therein, another complimentary factor is the intensity of use. Thus, in a predominant commercial area, a high floor area ratio (upto 2.5) would allow variety of uses in one plot, the traffic generation of which would be looked after in the plan. On the other hand, a lower Floor area ratio (upto 1.00) in a predominantly residential area would discourage sophisticated commercial and office use in this zone. The proposal aims at a better work-hom relationship, involving less commuting to work with prospects of self-contained neighbourhoods with a variety of compatible uses to foster a good environment at all times of the day. It attempts to eliminate the straight-jacket approach as in segregated land use planning procedures and practices as largely prevailing hitherto.

11. In addition to the 5 Use Zones listed above, it may be possible that further use zones are required under special circumstances i.e. ' a predominantly Government Use Zone' in the Capital and major cities. In such cases, the uses prohibited and allowed under appeal would have to be decided on merits in each case.

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SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'

(MARCH 20 - 21, 1978)

"LAND USE CONTROL IN BUILT UP AREAS(OLDER PARTS OF THE CITY")

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"Land Use Control in built up areas (older parts of the city)"

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In discussing land use control in built up parts of the city, an initial paradox has to be cleared. As the area is already built up and land uses already exist perhaps since a very long period, what is the relevance of land use control in such an area, as in any case it will be ineffective? If this is to be accepted, then why talk of land use control at all. In order to explain this apparent paradox, it is necessary to state the problems facing the old areas of the city and the alternatives which we have before us to resolve them.

Firstly, the older parts of the city which are mostly built up were suitable for a level and pattern of activity that existed at the time it was built. Narrow streets, small squares, two and three storey buildings, road drains, rudimentary lavatories etc., initially faced no problems and in fact met adequately the demands of those days. However, as the use of automobiles and scooters, more population, new activities to provide employment came into existence, the pattern of the old city could not cope with the new demands and patchwork improvements such as paving of streets have not been able to meet the requirements of more intensified use. Further, because of the demand for more space for carrying out trade and other activities, old buildings got slowly rebuilt, more intensively with hardly any open space and the environmental conditions started deteriorating and traffic bottlenecks became chronic. It is at this juncture some control over development has been

found to necessary and it is not merely land use control but total control over development and redevelopment that is needed. Therefore, land use control should refer not to land use only but to total development control. It is in that enlarged context that we should discuss the problem.

The tools that we have presently for development control namely, zoning of land use, FAR, Covered area, height zoning of buildings etc., serve quite efficiently in the case of new areas developed on a planned basis. When we come to apply these tools to existing built-up areas, their inadequacies become very apparent. In the built-up areas reduction of the covered areas has limited applications as most of the area would have been built up 100%. It is only when a total redevelopment of any section of a built-up area is taken up, that reduction in the covered area is conceivable and this rarely happens.

FAR is difficult to apply in the old part of the city where the buildings are at different level with mezzanines, attics, and covered courtyards. Insistence of set backs from the road with a view to provide for widening of the road will mean total demolition of frontages of buildings which is not easy to carry out and arouses a lot of public opposition.

Thus, the commonly used development control measures have been found to be ineffective in built-up areas and therefore the built-up areas have been re-built and renovated within the present structural framework often without any permission and a "fait accompli" accompanying situation exists. As a result of this process the problems of the built-up areas, whether it is in regard to traffic congestion, incompatible mixture of uses or fire hazards get more complex. If we are to prevent this happening and find an acceptable solution to the problems then our methods of development control in built-up areas has to be quite different to the ones that we are adopting in the newly developed areas.

Firstly, it will be very necessary to determine what would be the pre-dominant use in the built-up areas that should definitely remain and should be appropriately provided for. If it is to be a mixture of residential and commercial, which is normally the case, then the area would have to be conceived in terms of a mixed residential-commercial development with the residential component probably going to the upper floors and the lower floors being used for commercial purposes.

Once the use pattern is determined and accepted, a new type of circulation system would have to be evolved keeping in view the constraints of the present width of streets and their narrow winding characteristics. Efficient articulation of

movement for commercial purposes has to be assured, so that commercial activities can proceed without any kind of bottle-necks. This will require new classification of roads; e.g., roads suitable for pedestrian movement only; roads suitable for rickshaws and scooters, roads suitable for tongas and small motor-cars, with one way movement and so on. New definitions of functional roads has to be evolved and it will be necessary to separate movement of goods and people through traffic control devises eliminating likely bottlenecks either in the movement of goods, vehicles or people.

In the third step, it is to ensure that the population who reside there have minimum amenities available. It is impossible to provide open spaces and play grounds etc., according to the norms that we use in the new areas. There has to be a compromise and perhaps play-grounds have to be provided outside the built-up area for use by the school children and adults in the built-up areas. Certain other amenities which do not require open space such as clubs, libraries, space for cultural activities, could be ensured with whatever space become available.

It is not possible to apply any kind of a general rule or law for redevelopment of the built-up areas and each area has to be seen in regard to the existing economic and social fabric which should not be destroyed in the process of redevelopment

but should be nurtured and appropriately promoted.

Thus, in the built-up areas, before development control can be exercised a total pattern has to be envisaged in terms of heights of buildings, widths of streets, pattern of streets, and pattern of activities and the control that would be applied would be mostly in regard to buildings, safety, light and ventilation, firesafety, sanitation etc.

We have attempted an exercise in a built-up area in Delhi to test the manner in which the type of development control that is suggested above could be applied and it is our experience that unless sufficiently detailed work is done, development controls in built-up areas are bound to fail.

An important element in development control of built-up areas is the education of the public and the mobilisation of public support. Unless the public is fully informed as to what is intended to be done in each area, in terms of amenities, facilities and the adverse effect, if any it would have on any particular property and the manner of compensation which has to be generous to a fault, and then public support is mobilised. As the built-up areas offers unlimited scope for commercial use, there is a tendency to follow a laissez-faire policy and permit indiscriminate commercialisation. What is not realised is that this would destroy the pattern of land values by shifting the land values and ultimately the area would become unstable, defensible and becomes unliveable. This would have to

be considered through demonstrations and series of meetings with the people of the area when detailed explanation can be given as to why a certain improvement, even if it means a demolition of a building is necessary for the whole area and how would it would compensate the loss to any individual or individuals. The benefits to a much large number of people has also to be clearly spelt out. Public education and mobilisation of public support is absolutely necessary when we undertake development control in built-up areas.

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SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'

(MARCH 20 - 21, 1978)

LAND USE CONTROL IN OLD DELHI

by

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&

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LAND USE CONTROL IN OLD DELHI

M. Anas and M. Siddique

It may be mentioned at the outset that for the purpose of this paper we have taken Old Delhi as comprising the formerly walled city of Delhi or more precisely city, Sadar and Pahargan areas. This is more for the sake of convenience in handling the available statistical data than anything else. We hope that for taking this liberty, only a casual apology would do, because the City-Sadar-Paharganj territory does include most of Old Delhi.

There is no dearth of literature on the problems and prospects of urban planning of Old Delhi. It seems that what is lacking is implementation and regularization of a number of policies and plans. The mal-execution of certain plans in recent years has put further constraints on the future steps.

The purpose of this paper is to emphasize the fact that Old Delhi needs a comprehensive but compartmental planning. It envisages a control of the urban land use in such a manner as to provide easily living for and social cohesion in the population. The idea of building a new town on the ashes of the old should definitely be abandoned for it is uneconomic, unsocial and even unpolitical.

We may take note, even though briefly, of the historico-geographical background, certain demographic features and some significant urban phenomena of old Delhi.

Historico-geographical Background

A triangle of some 180 sq. km. is strewn with old capitals, of which Delhi proper or Shahjahanabad is commonly reckoned as seventh. The nodality of this triangle has been of great significance and consequence in Indian history and we cannot do better than quote Spate in this regard:¹

(This is) the gateway between the Thar-Aravalli barrier and the Himalaya; the marchland position between the northwest, ever accessible to new waves of invasion and cultural intrusion, and the shock-absorbing Gangetic Plains; the convergence of the routes from the ancient Cambay ports and the Deccan by Rajputana and Malwa. Few sites enjoy such long-sustained significance.

.... But not only is the general area thus marked out as the great cross-roads of the sub-continent: the pattern is reproduced in detail by the famous Ridge, the worn and arid last spur of the Aravallis, pointing like a lean but wiry finger straight to the Yamuna.

Shahjahanabad was founded by the Moghul emperor of that name (reigned 1628-58) on the low bluff overlooking the Yamuna floodplain, but itself safe from the dangers of floods. Ever since its establishment it has been growing in size and space, but in recent years only in the size of population. With the passage of time, Shahjahanabad- the walled and planned city - was crowded by inward rural migrants so that it expanded westward, covering the areas which are now Sadar Bazar and Paharganj.

1. Spate, O.H.K., India and Pakistan (London, 1967), p.541-2.

Demographic Features

Shahjahanabad - which was planned to accomodate about 60,000 persons in an area of about 5.2 sq.km., giving an average density of about 1,150 persons per sq. km. - now accomodates ten times more persons, i.e., about half a million, so that the average density is about 96,150 sq.km. in general and still higher in Maliwara and Dariba Kalan in particular. City- Sadar- Paharganj which had a population of 715,564 in 1961 (26.92 per cent of total Delhi) had increased to an estimated population of 850,000 in 1977. This ten-fold increase in the total population was largely due to the migratory flow of neighbouring rural population and refugees. In 1961, it received about 28 per cent of total migrants to Delhi (355,021 persons). It means that in 1961, roughly half of the total population consisted of migrants. The migrants came from almost all the states of India but largely from Uttar Pradesh (123,261), Punjab (60,573), Rajasthan (21,749), Madhya Pradesh (2,891), West Bengal (2,390), Jammu and Kashmir (2,263) and Gujarat (2,259). The process of migration continues and since this a phenomenon which can hardly be curbed or checked, there is a dire need of countervailing policies and programmes to reduce this burden.

The general sex ratio in City- Sadar- Paharganj is about 776 females per thousand males. According to principal religions works out to be Hindu (771), Sikh (834),

Muslim (753), Jain (895), Christian (919) and Budhist (950). The imbalances indicate a kind of social instability produced by the in-flow of migrants.

Morphology and Existing Land Use

Old Delhi, forming the inner zone of Delhi, is characterized by heavy congestions, chaotic land uses, slums, dark lanes, by-lanes, narrow and uncleaned streets and katras. In this zone residential and commercial areas are intermingled with each other. The increase in population by the migrants has resulted a severe shortfall in housing. A socio-economic survey of the housing conditions in the walled city reveals that 66 per cent of the families live in one room, 64 per cent families have no kitchen or veranda, 30 per cent have no curtyards, and 60 per cent are without bath-rooms. Out of 1,240 acres, 48 acres are used for factories of which 21 acres bear industries which are obnoxious or hazardous. Most of the land, however, is used for residential purposes. About 10 per cent of the total area of Shahjahanabad is commercial where, in 1961, there were 22,072 business and commercial units but this number had risen to 54,670 in 1971. This net increase of business activities shows that residential houses are converted into commercial premises.

It has been figured out that in the walled city 443 acres need development while 284 acres need improvement. Atleast 100 acres are needed for the provision of community

facilities, parks and wide roads, schools and open spaces. However, people cannot be moved unless they are provided with new places of work.

Planning and Development

For the planning of Old Delhi, the measures which have been taken to handle the problems and the actual development which has taken place in the last three decades are considerable by every standard. But in their sum total they leave the basic problems unsolved and have been aptly described as "cosmetic treatment".

One may recall that ever since 1947 plans for beautification and schemes of slum clearance alongside some redevelopment programmes such as those concerned with Dujana House and Jama Masjid vicinity were put across. It was later felt that such patch-works will not do, so that in 1962 a comprehensive Master Plan was drawn up by the Town and Country Planning Organization for D.D.A., which envisaged, among other things, the development of Shahjahanabad over a period of 20 years (1961-81).

This plan has not yielded much fruitful result perhaps because it lacks larger perspective. It has been pointed out by Shafi² and others that a fresh Master Plan should be prepared involving the entire National Capital Region to cover a larger territorial perspective and a

2. Shafi, S.S., "The Unmaking of a City Plan", The Hindustan Times Weekly, May 8, 1977.

larger time horizon extending up to the year 2001. It has also been emphasized that while preparing the Plan, each area and community should be treated with care and sensitivity.

Indeed, there is a plethora of suggestions. One writer, Jagmohan,³ considers that Shahjahabad should be resurrected to be come what it was in the past. He has suggested a number of provisions, policies and plans of action to built a second or new Shahjahanabad on Minto road- Mata Sundari road Complex. Furthermore, he has suggested for the redensification of New Delhi to reduce the population density and to minimise the socio-economic imbalances between Old Delhi and New Delhi and has proposed the development of Shahadra and a new development projects across the Yamuna. Besides these, he has mooted out suggestions regarding the functioning of various institutional urban development bodies.

It wa-s in the light of such suggestions that in recent years certain drastic steps were taken such as the demolition of the Turkman Gate dwellings and the resettlement of squatters in far-flung and rather undeveloped areas such as Khichripur across the yamuna. The social, economic and even political consequences of these actions are there for anybody to see.

Old Delhi is the core of Delhi and in many respects serves as the nerve centre of social, cultural, economic

3. Jagmohan, Rebuilding of Shahjahanabad: The Walled City (Delhi, 1975).

and even political life. It is the heart but it is a sick heart. In addition to all the hardships resulting from over-crowding, it suffers from a terrible environmental pollution. Industrial wastes such as fly-ash and boiler ash, carbon dioxide from automobiles, smoke and soot from the burning of fuels pollute the air. Water pollution is becoming greater due to the ever increasing amount of industrial waste and human waste. There is even noise pollution, so that in many areas noisiness exceeds the normal tolerable decibel.

One fact stands out. About half of the population of the area consists of migrants from the neighbouring states. They are generally uneducated and poor. They have, however, established their foothold and cannot be moved out easily in a specified period of time. Nevertheless, attempts can be made for thinning them out.

It may be noted that the City-Sadar-Paharganj area is one of the divisions adopted by the D.D.A. and it has been divided into 27 Development zones. This trend of classification shows a basic approach to what may be called city-region approach, which is a sound and healthy approach. In fact, the whole planning should be done at three levels, namely, (i) National Capital Region Level, (ii) Delhi Metropolitan Region Level and (iii) Delhi Urban Area Level.

(i) National Capital Region Level

The National Capital Region which comprises of the Union Territory of Delhi and eleven adjoining tahsils of Haryana and Uttar Pradesh needs planning in order to reduce the flow of rural migration. Medium-size towns and rural centres should be developed to absorb the rural migrants themselves.

(ii) Delhi Metropolitan Region Level

The Delhi Metropolitan Region which includes a number of so called satellite towns or ring towns, namely, Ghaziabad, Faridabad, Ballabgarh, Gurgaon, Bahadurgarh and Lune. They should be developed as counter magnet to the migratory flow and should be provided necessary infrastructure to this end.

(iii) Delhi Urban Area Level

The Delhi Urban Area has been aptly divided into planning divisions and development zones. The urban problems should not, however, be tackled by bulldozing method. The desire to construct on the ashes of the old should be abandoned. The process of urban planning or development should be on a long term basis and this may be achieved through compartmental planning.

As a matter of fact, compartmental planning could achieve the end by discouraging further construction and extension, by improving roads and lanes, katras and streets,

by providing undersurface drainage and by shifting crooked residential houses to new residential complex. If institutional organization of urban development bodies adopt a long term policy of development, one day the dream of redevelopment of Shahjahanabad would surely be fulfilled.

Hence, the major argument which this paper seeks to advance is in favour of compartmental planning for the control of land use in Old Delhi. This, however, cannot be done meaningfully and efficiently without taking into consideration the larger territorial perspective which means the Delhi Metropolitan Area and the National Capital Region. It is a two way traffic, i.e., from the whole to the part and from the part to the whole.

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SEMINAR

On

'CONTROL OF URBAN BUILDING ACTIVITIES'
(March 20 - 21, 1978)

APPROACH TOWARDS CONTROL OF BUILDING
BULK, APPEARANCE AND SHAPE

BY

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APPROACH TOWARDS CONTROL OF BUILDING BULK, APPEARANCE AND SHAPE

By

D. Ajitha Simha*

1. BASIC APPROACH

1.1 While preparing the National Building Code of India, we had occasion to examine several foreign codes, particularly from USA, Canada, UK, Japan, Australia, New Zealand and South Africa. We had also occasion to study some of the basic documents prepared in America, particularly on the considerations leading to determination of total volume of buildings, particularly in terms of fire. Reference here is made to the useful publication of American Iron and Steel Institute 1972 concerning fire safety in buildings. This approach is very much reflected in the officially adopted codes in various parts of America and Canada, and in particular reference may be made to the latest New York and Chicago codes wherein very important recommendations are made regarding the total volume of the building based on fire considerations.

1.2 In the same countries again, the zoning ordinances are also promulgated which again limit the number of buildings on a zoning lot. Here the concept of floor area ratio is brought in. Fortunately here a close correlation and co-ordination is established within the office dealing with

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building code so that consistency is established between the two regulations. This therefore brings out that it is possible to consider a scientific approach to the total bulk of the building starting from zoning regulations and covering concepts based on fire safety.

2. ZONING REGULATIONS

2.1 In India, in a general fashion it can be said that the Town Planning Rules take care of zoning regulations and building bye-laws take care of the development of the building within the site and the building bye-laws also take care of the total volume of the building in terms of the permissible FAR for different types of occupancies. Unfortunately, however, the regulations in either case are prepared by two different agencies and co-ordination is not always possible because of this. The zoning regulations through Master Plan would normally consider the land use pattern and decide upon the different land uses based on several considerations but today it appears fire safety aspect is not one of the considerations taken into account. Even in zoning regulations, fire safety becomes an important consideration for the following reasons:

The different occupancies such as commercial districts, manufacturing districts, residential, business etc do imply by their very definition different levels of fire load, that is, by the very nature of operations in these buildings the combustible contents in the building vary in quantity.

Because of this variation in the quantity, the fire load itself varies and the National Bureau of Standards, USA, has been able to establish a fairly acceptable correlation between the combustible contents of different materials and the fire load which can be expressed as so many lbs per sq ft of timber. This aspect brings in the question of grouping of occupancies of similar fire hazard which will lead to decisions on location of even fire stations. If low level fire hazard occupancies are brought together, the investment on fire fighting could be reduced to that extent and more time and effort could be spent on high hazard occupancies which can be segregated from low hazard occupancies. Also to avoid conflagration hazard, that is spreading of fire from one occupancy to other, it would be useful to separate them by sufficiently wide gaps and this could be also one of the decisions in zoning regulations. Indications of such grouping of different fire hazard occupancies are already given in the National Building Code of India. This is to a large extent followed in the zoning regulations of other cities in the west. Therefore in the zoning regulations fire could also be brought in as one of the parameters for decision on segregation of different occupancies and location of fire fighting services.

2.2 In regard to another major aspect of controlling volume of building in the zoning regulations, the concept of dwelling unit is receiving more and more attention. Earlier, population used to be the main criteria in terms of an assumed value of five persons per dwelling but in Indian conditions this assumption may not be always valid because of our social habits, joint family system etc. It therefore appears more reasonable to consider the total number of dwellings because this will have repercussions on services to be made available for this development. These services are in terms of water supply, drainage and electrical installations. Though water supply and drainage is related to the population basis, it is also necessary to consider the capacity of the development to accommodate more and more people. If, therefore, the number of dwelling units are limited, population could be limited to that extent and therefore a reasonable estimate of the services could be obtained based on the number of dwelling units.

3. FIRE SAFETY CONSIDERATIONS

3.1 Fire safety considerations come in, as already explained, as part of building bye-laws or building codes which is a terminology now in vogue. In the Building Code, the normal practice is to classify buildings on occupancy basis and the type of construction. The occupancy basis is based on the fire load that is assumed to be in the building and the type of construction would indicate the fire rating

of the construction. According to these codes, a combination of these two could indicate the total height of the building and the total floor area to be covered. In fact the latest codes indicate this in a tabular form and bring out that where the fire load is low and fire resistance rating of the construction is very high then the floor area and the height can be unlimited. This would theoretically mean, therefore, that the total bulk of the building is unlimited. But this is only from the point of view of fire and other considerations come in, which will bring down the total volume of the building from an unlimited to within certain limits because of other constraints. Also the zoning ordinance or zoning regulations would indicate the total density which will again bring the level of construction to certain maximum. Therefore this combination of zoning regulations and regulations concerned with fire safety based on occupancy classification and type of construction appears to be more reasonable approach in arriving at suitable controls of building bulk. This approach appears to be quite universal in the developed countries. This has also been indicated to the extent possible in our Building Code. But there are certain parameters which will be fulfilling if the whole approach could be translated in our country and these include establishment of laboratories for testing of fire rating of elements or established procedures for determination of fire

rating of elements or established procedures for determination of fire rating of elements so that they can be classified into one or the other type, determination of the combustible contents in buildings through an extensive survey of the buildings in the country, and administrative requirement of zoning regulations and building by-laws being brought under one agency so that proper co-ordination could be established between these two. In some cases it is noticed that the building regulations have indications on height and area limitations and some F.A.R. values are also found in the zoning regulations. This leads to an anomalous position and creates confusion in so far as development of the area is concerned. A case in point is Chicago where though there are two regulations - one on zoning and another on building - both are carried out under the auspices of the City of Chicago, Department of Buildings so that the administrative control can bring in proper co-ordination.

3.2 While rewriting bye-laws in India for some of the cities, an attempt has been made to synthesise this approach on building control both through the development control rules and through building bye-laws but in so far as existing Acts are concerned nothing can be done in contravention of them and therefore detailed exercise is necessary to examine the Acts governing town planning and Acts governing municipal building bye-laws so that some of the inconsistencies

between them could be ironed out. One of the approaches seems to be to simultaneously develop both development control rules for the city and also the building bye-laws so that consistency in approach could be maintained. This has been done in U.P. and Maharashtra.

4. CONTROL OF APPEARANCE AND SHAPE

4.1 In so far as control of appearance and shape are concerned, some of it could be dealt with the approach of architectural control. We have been able to suggest to some State Governments and the Centre also that an approach in this direction could be setting up of an Urban Arts Commission which would control appearance of the building, at least in the first instance for large and prestigious building coming up in the vicinity of existing monumental building. It may not be proper to apply these to ordinary buildings. However, in the case of new developments, appearance and size could be visualized and controlled in the very first stage itself street by street, because this will become difficult after the development has taken place. However, we are given to understand that in certain redevelopment schemes this approach will be attempted but it will be very difficult in view of the existing structures and redevelopment will therefore have to take place over a long period of time, may be in 50 or 100 years.

It has been possible to get an Urban Arts Commission set up in Delhi and its work connected with control of some

of the buildings would be of use in developing a proper architectural control in the city. Similar Urban Arts Commissions would be useful in other cities provided the scope is limited to large public buildings in the first instance because it is not the intention to create one more hurdle in the path of owners of ordinary buildings of getting clearance from the Urban Arts Commission. If this could be successfully brought out, some possibility of architectural control in some of the more prestigious areas of the city could be obtained.

4.2 Regarding shape of the building, as already pointed out, bulk as determined by fire safety considerations and zoning regulations would determine the shape. However, from the point of view of elevation, architectural control rules could govern the same. This is a desirable exercise and more and more cities, particularly of tourist interest, should take up this question. To some extent we have been able to bring this to the notice of several agencies connected with this in different States.

5. CONCLUSIONS

5.1 It appears, a little more rational and scientific approach to the control of building bulk could be attempted provided co-ordination could be established between zoning regulations and building bye-laws and also new concepts of determination of total volume of building through fire safety considerations are accepted.

SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'
(MARCH 20 - 21, 1978)

DEVELOPMENT CONTROL - SOME PROBLEMS OF ENFORCEMENT

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Development Control - Some Problems of Enforcement

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It is increasingly being recognised that unplanned and uncontrolled urban growth does the maximum damage to public health, safety and general welfare. Greater reliance is therefore, being laid on preparation and implementation of master plans for cities with a view to prevent haphazard urban growth. The fundamental concern of master plans is with the physical planning which seeks to direct urban development by allocating urban land to a variety of uses such as residential, commercial, industrial, recreational etc. In fact, master plan is expected to evolve a viable and valid urban form by dealing with aspects such as size of an urban area, its density, its shape, the uses to which it is put and its conditions. The master plan broadly indicates the directions along which development should and should not take place. The effectiveness of the master plan, apart from other factors, is heavily influenced by the two inter-related conditions namely (a) positive development should take place in response to its forecasting of prospective demand for various kinds of land-use; (b) developmental activities incompatible with the master plan should be controlled. If the basic need of the people for shelter

is not adequately met, the effectiveness of machinery for enforcing control will be adversely influenced. In this paper, an attempt has been made to highlight some of the problems in enforcement of development control.

2. The land-use strategies indicated by master plan to deal with the existing and future demands have invariably caused/an adverse reflections on the master plan in the process of its implementation. Some of these problems are inherent in the master plan itself but considerably the problems of implementation originate from a wider spectrum such as absence of urbanisation policy, lack of organisational viability, inadequacy of resources, and in capacity of social and political climate to help achieve coherent social and economic objectives.

3. Urbanisation trends in India reveals a growing concentration of urban population in a few larger cities. It has been frequently pointed out that the absence of urban policy has contributed to this lop-sided urban growth. It has put the master plans of cities wherever prepared, out of gear. The growth continues unabated posing serious problems to the planners. Should they accept the existing trends as given while preparing the master plans? If the forecasting of demand for various kinds of land-uses is based on existing trends, and the master plan gives specific direction to development to meet this demand, it will only further accelerate the alarming pattern of urban growth. It may also be

accused of being highly ambitious since the resource scarcity will stand in the way of meeting the demand. If the demand is not met, the effectiveness of development control to prevent growth and to keep a lid on powerful forces of growth affecting land-uses will be severely limited. Enforcement problems will be equally strong if the planners inject their urban policy preferences at micro level in the preparation of master plans. Alternatively, the planners may seek flexibility in the master plan to cope with uncertainties in the absence of a policy frame by reducing such plans to meaninglessness in so far as its capacity to provide guidance to those responsible for development control. Consider for instance the Master Plan of Delhi. It anticipated land use development based on prospective demand of 46 lakhs population to be accommodated by 1981 in urban Delhi. Now it is expected that it will have to accommodate 52 lakh population. While the demand has increased manifold, development of land particularly for residential use, has lagged behind. Despite firm statutory linkage between plan and control, the **ineffectiveness** of control is evident when one observes growing number of unauthorised colonies and constructions. Consequences of imbalance between demand and lawful supply have considerably contributed to the criticism of master plan as well as the agencies responsible for its implementation. Since development control defines limits within which lawful urbanisation could take place, a large and growing proportion

of urbanites belonging to lower income group can hardly afford to wait for the development of land and the cost of such development for their shelter. ^{They find their shelter} either by 'doubling up' in the existing structures or by constructing illegal structures to house themselves and to provide space for their work. Proliferation of slums, squatting on public land, unauthorised constructions are the response to their needs. Social and economic segregation of large section of urban population is natural outcome which is fraught with dangers. The 'softness of the state' is built-in in the process when politicians who promises to seek regularisation of unauthorised colonies have a chance to get the votes of their inhabitants. Further, the officials of the enforcement machinery for development control, the land speculators, the house owners each stand to gain while the master plan gets discredited and the enforcement machinery and the law-abiding citizen who do not dare to participate in the illegal scramble are the losers.

4. If the land-use planning is the basis of master plans, the control over physical development in regard to use to which land can be put, the appearance of buildings and landscape, the alignment of streets, densities of development etc. become critical. If the plan earmarks areas for open spaces, the development control has to prevent the building of houses in that area, if the plan provides for turning a hotchpotch of commercial, industrial, residential uses into

a systematic pattern of land use most conducive to public health, safety and general welfare, the development control has to ensure precluding any more of uses not in conformity with the plan in that area. If the master plan or zonal plan lays down optimum population densities and lands necessary for community facilities for these densities, the development control has to regulate the construction activities by prescribing building specifications. Development control being a regulatory tool heavily relies on the use of police powers of the state.

5. Many states have statutes of one kind or the other which provide for a measure of development control even for areas for which master plans are not yet available. Where master plans have been prepared, the absence of statutory provisions dealing with land-use control and zoning regulations, have kept the plans to the level of intentions only. Various kinds of controls and agencies for their enforcement have been in existence in so far as urban building activities are concerned. Municipal governments have been long empowered in controlling urban building activities, but their concern essentially has been confined to set standards of construction by which public health and safety could be ensured within its territorial jurisdiction. They had little capacity to control urban change and regulate and promote urban growth in a planned manner either within their jurisdiction or on its fringe. Improvement Trust were set up in some states to

undertake positive action and prepare a design for urban development for some of the important cities. But they exercise development control in areas under their schemes. In response to worsening urban situation, a wide range of special purpose bodies such as Housing Boards, Water and Sewerage Board etc. ^{were} incrementally added on to supplement the organisational inputs for urban management. These agencies have a chunk of developmental control or heavily influence it directly or indirectly. In addition, Town and Country Planning Department of the State Government is also empowered to exercise development control particularly in the periphery areas. Distribution of powers for development control amongst the multiplicity of authorities engaged in urban development but operating at times in total isolation to each other has caused a fragmentation in approach to development control. The trend is towards setting up of multipurpose planning and development authorities equipped with wider jurisdiction and powers with a view to develop some kind of corporate approach at local level to comprehend the complexity of urban crises and to direct urban development to contain them. While considerable progress has been made in evolving organisation for preparation of master plan, a viable enforcement machinery equipped with adequate powers for development control continues to be an unresolved problem.

6. The most important tools of development control in cities continue to be municipal acts and buildings

bye-laws made thereunder and municipal administration provides the enforcement machinery to exercise development control within its jurisdiction. Municipal Acts and bye-laws empowers municipal bodies to exercise control over sub-division, to sanction layout plans and to regulate construction and erection of buildings. For instance, the Delhi Municipal Corporation Act 1957 requires all sub-division and lay-out plans to be sanctioned by it. Erection of buildings is governed by Building Bye-laws. In the light of the master plan, the Building Byelaws were revised to make them a fit instrument for development control in areas other than those designated as "development areas". For the 'development areas' the enforcement of development control remained the responsibility of DDA. The Building Byelaws No.25 specifically provides that 'Notwithstanding anything contained in these bye-laws, no buildings shall be erected or allowed to be erected in contravention of Master Plan or any zonal development plan'. Further, the Bye-laws regulate building activities in different use-zones by prescribing the minimum size of plot, frontage, setback (front, rear and side) number of storeys, coverage on each floor etc. The Bye-laws also deals with structural specifications including those related to safety, health and sanitation. However, where there is absence of statutory provisions of land use control/zoning regulations, master plan prepared can hardly direct development of land. Effectiveness of development control under state

municipal legislations and building byelaws made there under, has been subjected to considerable doubts, Sub-division of lands without necessary approval of layout plans and unauthorised construction continue with vigour taking advantage of the weaknesses of municipal enforcement machinery and the defects in Municipal Acts and building bye-laws made there under.

7. Amongst the weaknesses of the enforcement machinery of urban local bodies, lack of adequate powers of enforcement is often mentioned. Though it is obligatory to get sanction of building plan before starting construction, if one does not do so, the enforcement machinery at time find itself handicapped to take necessary action because of the long procedure of issuing notices and eventually by court injunctions. By the time necessary formalities have been completed and legal hurdles overcome, successful mobilization of support from police and other departments secured, the number of similar constructions in the same area might have multiplied manifold giving social and political dimensions to any act of demolition. The unauthorised colony born under such circumstances will eventually seek regularisation. Another factor which contributes to ineffectiveness of the enforcement machinery is the lack of coordination between the Registration Department and the municipal administration. In the absence of any provisions requiring Registration Department to register only those sale transactions of lands of which layout plan has been sanctioned by the municipal body, the landowners

continue sub-dividing land into plots and selling them without regard to the requirement of controls stipulated under municipal laws. Such transactions, apart from becoming the basis for violation of bye-laws subsequently, also impose heavy financial burden on municipal bodies once they take over these unauthorised colonies. It is necessary therefore, to plug these loopholes with necessary modification of law so as to ensure necessary coordination between the agencies responsible for effecting transfer of land and those which are required to ensure its proper development.

8. Quite frequently it has also been pointed out that the local bodies do not make effective use of the powers they already enjoy. The laxity in enforcement gives sufficient scope for indulgence in unauthorised constructions and uses. The integrity of enforcement staff at the field level is often questioned. There is a widespread impression amongst the citizens that it is more important to satisfy the officials engaged in sanctioning of building plans than the building bye-laws. Securing of a completion certificate after having constructed the building is inviting the mercy of a building inspector. Equally important factor in contributing to the laxity is the technical competence of field level officials responsible for scrutinising of the building plans and issuing of completion certificate. Most of the municipalities do not have qualified and trained technical staff for this purpose. Another weakness of the

municipal enforcement machinery is the poor intelligence system both in regard to detection of unauthorised constructions and uses and in respect of generating relevant information which the agency responsible for development control should monitor for review of plan and activities of other departments. For instance, information regarding concentration in part of a city of a considerable number of applications for extension to existing houses or change in land uses or of intensity of unauthorised construction and uses may not only give clues to population distribution and its socio-cultural dynamics, demands for various kinds of uses etc. but also may serve as an early warning for further changes which might be needed in framing policies for water supply, electricity, schools, sewerage, transport and other utility services. The point is that the effectiveness of development control depends upon information system which can also provide the necessary links between planning and control and amongst various agencies responsible for urban service. This type of information system has not yet been developed in most of our local bodies and urban planning agencies, and thus the potential relevance of development control to policy planning has been largely ignored. Lack of effective coordination between the licensing authority and the enforcement agency for development control, even within municipal administration is another factor which contributes to the violation of uses of land stipulated under master plans.

9. The delays and harassment experienced by citizens in getting building plans sanctioned, and the provision of 'compounding' often prompt them to resort to unauthorised constructions. Acute shortage of well qualified licensed architects and draftmen in most of the towns and laxity in effecting control over them are partly responsible for delays caused by submission of defective and incomplete plans. Equally important however is the impressions amongst the citizens about architect's success rather than his competence in getting efficiently the sanction of plan through whatever means. This creates a climate of 'selective delays'. There is hardly any attempt to provide guidance to citizens in case of defective plans.

10. Apart from the above mentioned weaknesses of the municipal enforcement machinery responsible for development control, inadequacy of building bye-laws as tools of development control has been frequently pointed out. The Task Force on Planning and Development of small and Medium Towns and Cities observed that 'building bye-laws are very sketchy or they do not cover the total concept of city or town development in the form of development control followed by building rules and schemes for the city such as water supply, drainage, transportation'. Indian Standards Institution while recommending in 1970 the National Building Code also observed the following defects of building bye-laws:

- (a) The current bye-laws, wherever they exist are outdated;

- (b) They do not cater to the use of new building materials and to the latest developments in building designs and technology;
- (c) They lack uniformity; and
- (d) They are more specification oriented than performance oriented.

It is necessary therefore to revise the bye-laws and bring them in line with the requirement of development control envisaged under master plan.

11. While attempts have been made in some cases to revise byelaws in order to make them viable tools of development control, another aspect of the byelaws which has drawn the attention of many people is the standards or norms of constructions prescribed. It is often felt that house construction in accordance with the standards of constructions laid down under byelaws can be afforded by only a small fraction of the people. While it may be true that such standards are minimum for a reasonably decent urbanisation and for the health and safety of the people, in the face of growing need amongst those who cannot afford to comply with such standards and limited means of enforcing these standards, their violations are inevitable. It may therefore be necessary to consider different standards for different income groups, while avoiding social and economic segregation of lower income group of urbanities.

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SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'
(MARCH 20 - 21, 1978)

Land Use Control & Its Enforcement with
particular reference to West Bengal.

By

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Chief Town Planner & Controller of Land Use
Government of West Bengal.

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Land use planning & Land Control in general:-

As a town planner, by land use planning we mean orderly use and development of land, While town planning has economic and social effects and while land use plans are conditioned by socio-economic elements, it is primarily concerned with the physical environment. It deals with the location and extent of various uses and activities including structures. It also deals with horizontal and vertical relationships of buildings and uses.

The term "Land Use Planning" includes planning for other real property as well. Most activities take place on land, but planning the activities on water is as closely related to land use planning as water is related to land. Buildings are also real property and all activities inside a building and its relationships to land and other structures including their uses are important components of land use planning. A town planner tries, through the provision of various kinds of controls and inducements, to shape future

*Views expressed are personal and do not represent that of the Government.

land development and preserve existing land development without radical change. The primary legal tools for effectuating land use planning include such police power regulations as zoning and subdivision-plotting controls, including official "mapping" for the same.

Building and housing codes which fall also under police power, usually have limited coverage in materials dealing with land use. The reason is that these codes deal largely with physical insides of structures and not the use of land as such or how the building is related to surrounding uses. But these are also important in the context of total development of any area and should form part of a comprehensive acts on planning and development.

Nuisance law is also a land use control device which is employed to reduce gross affects arising out of land uses. In our country, being closely related to public health, Air and land (including water) Pollution Acts have been passed in some states separately from Land Use Control Acts or Zoning Act.

Matters of finance and taxation have also some important influence on land use. Since these tools are those commonly used to raise revenues and redistribution of wealth, these are not generally well adopted to land use control measures.

Land use planning till now in India is yet to be fully accepted as an exercise of local authority. It is predominantly being done by the state government either directly or through the institution of development authority. Therefore governmental involvement in land use control is substantial as can be seen from various provisions of land use control Acts or State Town & Country Planning Acts.

Development control in any planning area by State generally presupposes existence of a physical plan for development of that area, classification of land into various kinds of uses including agricultural uses and conservation areas. Since existence of a physical development plan in most cases **is a pre-condition** of imposition of such restrictions, normally such an Act is used in urban areas where plans are ready. On-ly exception, to my knowledge, being West Bengal where the law has been applied almost throughout the State before any development plan is started even for most of the areas. This has given rise to many problems, but that is a separate story.

Naturally enforcement machinery is closely linked with the kinds of functions the machinery is supposed to discharge. It will therefore be fruitful if some provisions of the Calcutta Metropolitan Planning Area (Use and Development of Land) Control Act, 1965, popularly known as CMPA Act, 1965, are discussed.

Functions identified under the CMPA Act, 1965:-

Section 4 of the CMPA Act, 1965 has enabled the State Government to divide any controlled area or a part of it into various use zones as may be deemed best suited to carry out the purpose of this Act. And within each zone it is possible, through directions and regulations, to regulate and restrict the erection, construction, reconstruction, alternation, major repair or use of buildings, structures, or land. But to make such control measures constitutional, it is necessary to have a (comprehensive) development plan so that such directions and regulations could be issued in accordance with the plan. Such regulations are normally made with reasonable consideration, inter alia, to the character and suitability of the zone for the most appropriate use of the zone.

Subsequent sections of the Act deal with procedure for finalising the zoning plan including objections by the public. The Act also permits an officer of the State Government not below the rank of a Deputy Secretary to consider the objections and suggestions of the public and submit his recommendations to the State Government for modification, if any. Finally the Act also contains provisions for enforcement of the regulations.

The Act, as it is, did not perhaps contemplate adoption of temporary interim measures as have been done

in West Bengal. But use of the Act for interim purposes, though justified for a temporary period, is bound to complicate the problems of enforcement in course of time.

The Act under Section 8(2) makes it obligatory on the part of the Controller to make enquiry. All decisions are normally based on the result of such enquiry made by an inspector. Any infringement or violations of this Act are dealt with under Section 10 & 11 of the Act. Under Section 10, a violation of the Act or the directions and regulations are declared to be a misdemeanor punishable by fine. Civil penalties are also authorised. In order to stop construction or use, the act also authorises controller to take appropriate action or proceedings in a court of law.

Problems of enforcement:

Despite the legal powers given in the CMPA Act, the enforcement programmes are very much lax primarily because of shortage of proper man power and other related problems of control. The enforcement programme remained in paper because of non-inclusion of request for additional suitable personnel in the State budget. Till now, at the head quarter, only one technical officer is statutorily working part-time on enforcement and only two other officers are helping him part-time. In other areas of the State, there is none qualified to handle this problem of enforcement

(except in one small area only). Complaints are naturally multiplying by members of the public who are adversely affected in the Districts and in many cases violations are discovered without any legal action taken against them. Even the required machinery for initiating legal action has not been set-up after the notices for demolition had been served in accordance with the provisions of law. Field checks on cases, where permission had been granted, remain a matter of dream. It is quite logical to expect that many buildings and structures will be used for purposes not permissible under the Act. Occasional area-surveys are necessary to discover use-violations, but no programme could be undertaken to the detriment of enforcement objective.

There are other difficulties as well. The first enforcement of the Land Use Control Act, 1965, in West Bengal has been attempted in Ultadanga-Maniktala Control Area and VIP-Road area since 1969. While there is no plan for the VIP-Road area, an outline plan exists for Maniktala-Ultadanga area, where broad land use zones have been demarcated along with identification of compatible and incompatible uses for each kind of zone. This plan therefore allowed some variety and limited experiment in mixing land uses within each zone, but by the same token is virtually impossible to describe the system thoroughly or to predict land consumption rationally and scientifically - one of the basic

tasks of planned urban development. This difficulty is primarily because of absence of rational analysis of neighbourhood needs and characteristics required to plan an economic and convenient arrangement of uses.

There is also another problem. Since Land Use Control applies to both existing and new developments, there is no clause in the present Act which shall not permit continuance of existing non-conforming uses beyond certain period of time. In fact, such omission has given rise to peculiar problems of implementation. In a residential zone within the Ultadanga-Maniktala Controlled area, an owner has applied for permission to construct residential quarters over an existing onestoried industrial-building which is nonconforming in nature but being allowed to exist without any limit on its life. If now permission is refused, it shall be contrary to law and if allowed, it shall be contrary to health and welfare of future occupants of the building over a factory. Suitable modification of the Act, therefore, seems to be the only way to tackle this kind of problem. Till then the problems of enforcement remain. Since I have dealt with such problem, in so far as implementation of the CMPA Act in West Bengal is concerned, in an article published in July-Sept. 1977 issue of the 'Nagarlok' I am not inclined to describe those here again.

The problem becomes manifold complex in case of enforcement of housing codes, though fortunately for us housing Codes are not incorporated under the existing CMPA Act, 1965. Some of the general problems of enforcement of housing codes are discussed below.

Housing codes primarily deals with internal aspects more than external ones. Generally its violation comes to the notice of the authorities either through private complaints of persons or as a result of physical survey undertaken by enforcement machinery. Whatever may be the case, once the matter is accepted as a violation of the code, the land lord is served with a notice of hearing and there is then an official finding that the violation exists. The authority thereafter orders for repairs or asks for correction. After the period of compliance is over, reinspection is generally done. If the repairs or corrections are not made, period of compliance is either extended or appropriate order is issued. Generally such order involves vacating the buildings where such buildings are unsafe, or repairing the buildings or even demolition of the same. If such orders are not carried out, the authority can impose fine. Some laws are stringent enough to place the owner in prison in addition to imposition of fines. But hardly such steps are taken in India.

Recently Calcutta Corporation, as the authority to enforce housing codes (a part of the Calcutta Municipal

Act, 1951) within the municipality of Calcutta, has proposed setting up a statutory House Repairing Board whose primary function would be to undertake repair work and gradually recover the cost in those cases where the owners would fail to carryout the order of the authority for repair etc. This authority has been proposed to collect rent and make repairs out of the rents. Also by some other act the tenants are given protection against eviction. In West Bengal there is the West Bengal Premises Tenancy Act, 1936 which allows a tenant to notify the landlord through the Rent controller of a defect, himself and deduct the expenses from the monthly rent. In many developed countries Housing Code provides that a tenant may sue for damages if injured as a result of an injury caused by violation of the housing Code. Mostly these are tortuous liability. It is interesting to note for a town planner that in some states of the USA slum Lordism is treated as a tort (cf Sax and Hiestand, 65 Michigan Law Review, 869(1967), i.e. ownership or maintenance of a slum is punishable by law.

There are also many court cases in regard to enforcement of housing codes in many developed countries where tenants have argued that violation of statutory provisions constitute a breach of an implied warranty of habitability and have sought to escape payment of rent and eviction on the theory that the lease contract involving the premises is illegal and should therefore not be enforced. The

enforcement machinery obviously also gets involved, and unless adequately equipped to deal with such a situation, may create problems. In brief, code violations may allow the tenants to seek redress from either the enforcement machinery or from a Court of law and in both the cases legal functions are quite elaborate. Sometimes complaints are not made by tenants with the enforcement machinery because of inherent malpractices including likelihood of eviction on the ground of safety. The problem becomes more complex as we look at the multiplicity of agencies dealing with similar problems under different statutes but everyone in one form or other controlling developments. Also inspectors are inadequate in number and being new at the beginning are not well trained in the profession of enforcement. Graft and corruption are also heard of. In case of court case, besides having the burden of proof prosecutors are not from the agency charged with the administration of housing code and may well be unfamiliar with housing code law and have little time to inform themselves about a particular case.

The problem of enforcement of housing code to my mind, is essentially an economic one, and hence some planning policy issues are involved. For example, what step the law should take for repairs of a building when such repairs can not economically be justified on the part of an owner? These are, however, all part of planning process and if done properly, enforcement problems are reduced considerably.

One important difference between Indian Act and similar Acts in USA should be mentioned here. In USA any private person can initiate action forcing the enforcement machinery to act according to provisions of law. He can

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compel the public official to enforce the provisions of law through mandamus. But this is not the case in planning laws in India where public officials may take action after receiving complaints of violation from private parties or a citizen. But there is no provision in law which authorizes a citizen to compel him to enforce, particularly when no discretion in the matters exists for him. For example, the case in California (1957) between Blankenship Vs Michalski may be cited. Also the District of Columbia, Zoning Regulations (1963) provide, "any neighbouring property owner or occupant who would be specially damaged by any violation may, in addition to all other remedies provided by law, institute injunction, or other appropriate action or proceeding to prevent such unlawful erection or uses, or to correct or abate such violation of to prevent the occupancy of such building, structure, or land".

It may be seriously thought if such provisions should not also be included in Indian Planning and Zoning Acts, because, I believe, there is every likelihood that housing and zoning ordinances would be obeyed more if violation thereof could lead to greater civil liability. Inclusion of such provisions will, however, increase the problems of enforcement.

Existing Organisational arrangement in West Bengal:-

Land Use Control Act, 1965 is being administered in West Bengal by the Town & Country Planning Branch of the Development & Planning Department of the State Government.

Let it be understood at the outset that no accurate and comprehensive picture can be given of the way in which the Deptt. goes about its day-to-day work.

Normally a Secretary & a Dy. Secretary are responsible to the Minister-in-Charge for the functioning of the Department as a whole, and that the Department is divided into three main groups:-

- (1) Headquarters Secretariat
- (2) Headquarters technical Directorate
- (3) regional organisations like Asansol Planning Organisation (APO) and Siliguri Planning Organisation (SPO)

The headquarters Secretariat is made up of non-specialised Civil Servants of executive and clerical grades with three Assistant Secretaries, one being responsible for control work, besides doing other works as well.

The headquarters technical staff are of four main categories:-

- (1) Town & Country Planners doing planning works and also enforcement of the C.M.P.A. Act in some areas of the Calcutta Metropolitan District.
- (2) Economists etc. doing research work independently
- (3) Engineers, architects etc preparing projects and also implementing some of them.
- (4) Traffic engineers preparing schemes for traffic improvement.

At present there are only two organisations outside the Calcutta Metropolitan District. These are A.P.O. & S.P.O. and are responsible for all planning activities within the region. It should be mentioned here that these regions are not planning regions but are large areas demarcated for convenience. However, they also progressively deteriorated in their functioning. About a decade ago two outline physical plans had been prepared after some ad hoc meetings and conferences between the planning organisation and other Depts of the State Govt. Not to that required extent public opinion was consulted leaving some communication gaps in the planning process. It is also Highly regrettable that the public is not also frequently given an account of policy decisions affecting them at various levels of planning. Therefore the plans were subsequently criticised and also quite a great amount of work is wasted because of problems of enforcements and subsequent non-implementation of plans.

The working of the Secretariat branch of the Deptt. is shrouded in almost complete mystery. It is alleged by public that it contains some more minds than necessary thus adversely affecting working atmosphere. Also most of the people working have spent most of their working life in an atmosphere of traditional administration rather than in planning administration and planned development and have lost all the high qualities necessary for successful developmental administration in an independent country. As a result public in general is the worst sufferers gradually becoming contentuous to planned development.

Out of headquarters technical staff, the town & country planners are probably the most satisfactory part of the Departmental machinery who perform their difficult duties of enforcement with utmost skill, courtesy and impartiality.

But in most of the areas of the State District Magistrates are on an adhoc basis, appointed as Controllers for the purpose of enforcement of Land Control Act. An ad hoc authority, for our understanding, may be defined as one set up by the govt. to deal specifically with a particular task, of defined scope for the performance of which the govt. has statutory responsibility. Obviously D.Ms are responsible to the govt. for their actions and not to the people. This is even more true when no plan was prepared in consultation with people. These facts also clearly show the remoteness of popular control of citizens in their own affairs, sometimes labelling it "undemocratic" by them. It has never been thought at the time of enactment of the law if it is not better at least to evolve a mechanism whereby persons of real ability with interest in and some knowledge of planning for the area should be associated to advise the controllers where for some compulsion such controllers are appointed from amongst civil servants.

At all events, if such ad hoc authorities are used for enforcing development control measures, it is in the highest degree desirable that the government should appoint along with them qualified planners to get the work done and remain as far as possible sensitive to modern requirement of development administration.

As assessment of the situation in West Bengal:-

To us development planning is synonymous with Town & Country Planning. And town and country planning is primarily the concern of the Department of Town & Country Planning in each state of India. This is the Department which is made responsible, though in some cases this is not yet statutory, for securing consistency and continuity in the framing and execution of State Policy with respect to use and development of land. In States, where the Town & Country Planning Acts have already been passed, the Town & Country Planning Department of the State Government is statutorily assisted by various local bodies and authorities in the attainment of general objectives of planned physical developments of towns & villages. For obvious reasons this is not as yet the case in West Bengal where no definite policy is adopted in regard to planning, implementation and enforcement of physical plans. At present the responsibility of formulating planning proposals for the State rests with the Town and Country Planning Branch of the Development & Planning Deptt. But the organisational structure is so deficient that not much progress is seen even in the discharge of this responsibility. This dismal situation is also reflected when enforcement of the existing Land Use Act, 1965, had made a beginning in 1969 and subsequently in 1975-76. But even this was mostly tried in areas for which no physical plan existed. The State Govt. according to the Act, have delegated the power of development control of a planning area to a controller appointed for the purpose with the right to hear appeal kept to

itself. The Secretary, representing the govt. and who is normally a bureaucrat, has the duty of adjudication on the merit of appeal, and may determine the case accordingly. Normally such appeal is decided either way on the merits of development plans if any, for the area.

I think the nature of enforcement machinery is dependent on the settlement of an important issue relating to the mechanism adopted for planning & development. Who is responsible for planning which is mostly related to policy matters? For example, if the responsibility of preparing development plans and enforcing & implementing the same rest with a local body or a development authority, then the State Govt. has the right of adjudicating on appeal. It may have also the right to call in any application for planning permission and determine it in the light of any statutory development plan. It is worth to be noted that though previously the Local Authorities had no control over developments by the State & Central Govts, but the modern tendency is to subject such governmental departments and agencies as well (except direct defence matters), to the scrutiny of such development plans.

From the brief outline of the planning process indicated above it may be thought that problems of enforcement are perhaps smoothened. But in practice it is not so because of existence of other statutory bodies dealing with various aspects of development. For example, the West Bengal

Industrial Infrastructure Development Corporation (WBIIDC) has the right to develop any area showing various uses of land. What will happen if there is a conflict between the WBIIDC and the State Enforcement machinery? The situation is ripe enough to give rise to conflicts affecting developments. Another example may be given. VIP road area had been declared a controlled area in 1969. Permission for industrial development had been refused in one particular case in accordance with the provision of law. But pressure have been put by the owner of the private industry who took illegal access without getting formal permission, making enforcement still more difficult. The general complaint is therefore half-hearted enforcement of land Use Control Act in this area. It is of course necessary to recognise that the government is naturally interested in having more employment opportunities through industrialisation, but it should have been more helpful in the interest of total development that activities of the public authorities reinforce the enforcement machinery in discharging their statutory responsibility. Apparently the simple and logically divided responsibility between the highest-decision-makers and the skeletal enforcement machinery is confused enough necessitating urgent remedial steps. The complexity has increased manifold since there is no development plan for all the areas already declared as controlled area in the State. The problem is somewhat easier where a development plan has been prepared and approved after going through normal process of approval.

But here again the problem of enforcement is dependent upon the degree of detail given in the development plan which has been approved and the persons enforcing them.

Another important point should also be mentioned. To prepare a development plan needs time. Therefore it becomes sometimes necessary on the part of a Controller of a planning area that permission for particular use in a particular plot of land is given or refused or given subject to some conditions. He can not postpone consideration of an application because the relevant development plan has not yet been prepared, but must at once decide whether the particular proposal can be allowed without conflict with the development plan when the latter is prepared. This is a very difficult technical task and can be suitably dealt with only after the detail development plan is prepared. In the circumstances to ask a non-planner to enforce the law, therefore, seems to be an open invitation to chaos.

Some suggestions:

We know that not much radical change in the existing situation is going to happen in the near future. Basing our proposals on this assumption I am trying to give an outline of a possible mechanism.

The first, which I do not think anyone having the understanding of the subject would advocate, is to leave development and changes in the use of land to the free planning of forces of demand and supply and also to have no statutory planning system so that satisfactory results are obtained in the long run. The argument against such a

negative policy is well-known. This would have saved us from having any form of enforcement machinery.

In a modern and densely populated society physical environment is complex enough needing legal intervention by a public agency. A possible method could be minimum development control under which no attempt is made to plan comprehensively, but only to ensure that no grossly harmful development takes place. If such an approach is adopted, it would require less administrative skill, but will prove impractical in the sense that such a policy would in future land the planning area into chaos when increases in population will manifold increase problem of urbanisation. Such an approach may not also fit into broad national or regional framework for development of human settlements.

Another system may be, in tune with democratic norms, to have Committee system of development planning and control (statutory or otherwise) consisting of elected representatives and selected suitable officials to make decisions in the light of advice already tendered to them by experts through the accepted development plans. Appeal against decisions of such Committee may be heard by the State government represented by a senior civil servant acting in the name of the government. It is apparent that being a non-planner, the appeal will normally be decided on non-technical considerations (unless assisted by a town planner) and therefore there will be no mechanism that will stop abuse of power, if it occurs. But then it is the price

of democracy one must pay. It is, however, more likely that the decision on appeal would be decided without any variance from that of the Committee.

It might, therefore, be in the interest of efficiency and genuine democratic control, if elected representatives confine themselves to approving general policies, leaving detailed decisions to technical officials, but reviewing at given intervals the effects of their policy. Such a system is expected to speed up administration of enforcement machinery, since members would always remain alive to the burning issues of development control, and would also avoid the present policy of rubber-stamping the planners' recommendations without any actual understanding and practical examination. Such an arrangement will however require some change in the prevalent system of managing the government.

The system can further be improved in case where development planning is done by local authority or development authority, by appointing a planner by the State Govt. and deputing him to the local authority both for the purpose of planning and subsequent development control. In such a case the control officials will be easily bounded by the provisions of the development plan leaving the appeal matters to the Apex machinery for town and country planning. If sufficiently senior planners are deputed to such development authority with attractive salaries, I am certain that such an arrangement would

produce better decisions more speedily than those arrived at by ad hoc authorities or by a Committee of non-professionals or by a non-technical individual. The idea may seem radical, but has much rationality behind it, since I believe that a democratic government can ill afford to be inefficient and arbitrary if it is to survive and also that adjudication on technical details can not be properly done by persons who have no knowledge of town & country planning, however well they may be advised by planners and particularly when there are no many gaps in planning process in our country.

The above outline could also be adjusted if regional planning officers are brought into the system of planning & development for a wider area. Some of the state-level functions of co-ordination and decision making could be delegated subject to overall control at the State Govt. level. Introduction of an intermediate office may, however, require adoption of some rational personnel policy rather than the machinery and hence not discussed here.

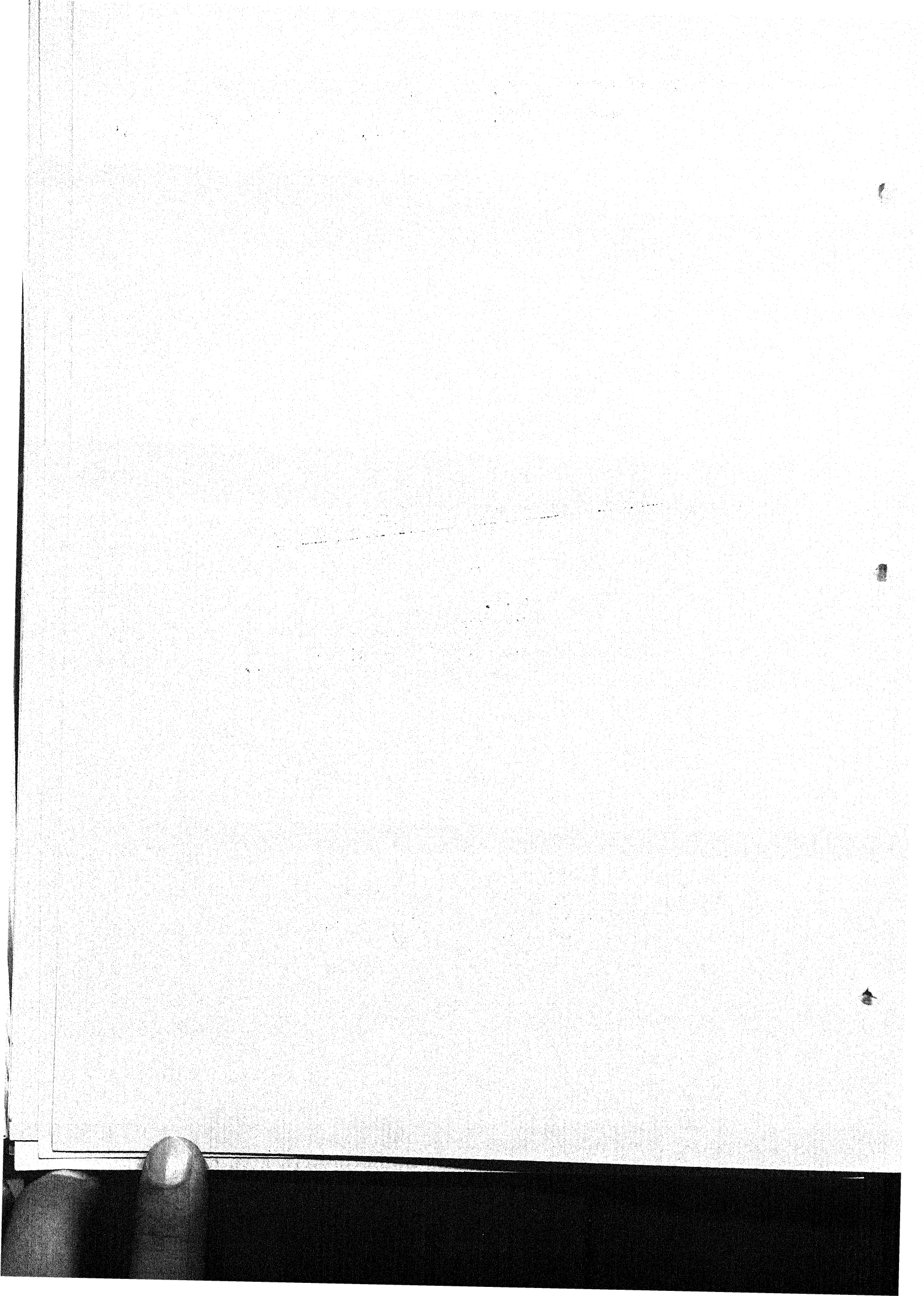
SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'
(MARCH 20 - 21, 1978)

DEVELOPMENT CONTROL IN GREATER BOMBAY

by

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Development Control in Greater Bombay

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Preamble:-

Control on Development in Bombay may rightly be said to have commenced when the Building Regulations were introduced in the Bombay Municipal Corporation Act of 1888 and the bye-laws were framed under the provisions of section 461 (a), (c), (d) & (dd) of the said Act. These Regulations required provision of minimum open spaces around a building and laid down certain restrictions as to its height in relation to the road width with a view to ensure proper light and ventilation. Further in the city of Bombay as per provisions under section 349A of the aforesaid Act, the maximum height permissible was only 70 feet.

The Suburbs & Extended suburbs were merged in Greater Bombay in the years 1950 and 1957 respectively and the development in suburbs & Extended suburbs was controlled by the specially framed building bye-laws, where-under the built-up area on the ground floor was restricted to one third the plot area and only Ground and two upper floors were initially allowed. In subsequent years however ground and three upper floors were allowed. However in majority of the Town Planning Areas as per special Town Planning scheme regulations, only Ground plus two upper floors were allowed.

The building bye-laws also laid down the procedure for obtaining the building permissions, building/drainage

completion certificates and such other matters. The bye-laws were further very comprehensive and governed the minimum sizes of the sanitary conveniences including water-closets, bath-rooms, their locations, entrances theirto etc. They provided for structural safety of the buildings, sizes of the rooms, passages corridors, lobbies, staircases as also their proper light and ventilation, means of access, etc.

The Building Regulations incorporated in the H.M.C. Act of 1888 as also the Building Bye-laws framed there under, however, sadly lacked the provisions necessary to control the nature and extent of particular type of development in certain localities. Consequently minimum requirements in effect became the standards and city was full of intense development with structures built to the minimum required standards of open spaces, etc. under the building regulations. The city land was intensely utilised for purposes economically best/suited to the development regardless of the requirements of the human being as also community.

Remedial measures naturally followed in an attempt to solve the vexations problems arising as a result. The Bombay Town Planning Act, 1915, was enacted but it had certain limitations in as much as its application was not compulsory and was mainly applicable to the areas which were either in the course of development or likely to be taken-up for development such as construction of buildings. The Act however did not envisage planning of large town or city like Bombay as a whole, where large part of it was already developed to standards

which were obsolete or to deal effectively with its problems . With a view to remedy these defects amongst other, the Act was revised in 1954 and its scope enlarged to enable more comprehensive planning to be taken up. This Act known as Bombay Town Planning Act, 1954, came into force on 1st April, 1957.

The Development Plan and the Development Control Rules for Greater Bombay:-

The Bombay Town Planning Act, 1954 enjoined on every local authority the obligatory duty to carry out the survey of the area within its jurisdiction, to prepare and publish development plan for the whole of the area within its jurisdiction and to submit it to the state Govt. for sanction within 4 years from 1st April, 1957. The Development Plan has generally to indicate the manner in which the development and improvement of the area are to be carried out and regulated. The contents of the Development Plan are to be:-

- 1) Proposals for designating the use of land for the purposes such as (i) Residential, (ii) Commercial, (iii) Industrial & (iv) Agricultural.
- 2) Proposals for designation of land for public purposes such as parks, playgrounds, recreation grounds, open spaces, schools, markets or medical, health or physical, cultural institutions.
- 3) Proposals for roads and highways.
- 4) Proposals for the reservations of land for the purposes of the Union or State Govt., any local authority or any other authority established by law in India, and

5) Such other proposals for public and other purposes as may from time to time be approved by a local authority or directed by the State Govt. in this behalf.

The Bombay Municipal Corporation had earlier prepared an outline of a Master Plan for Bombay in 1948. It had however no legal validity and by 1957, it became out-dated. Moreover the B.T.P. Act, 1954, required much more details to be shown on the Development Plan than were envisaged in the Master Plan.

The Municipal Corporation of Greater Bombay therefore declared their intention to prepare a fresh development plan for Greater Bombay on 18th September, 1958. Thereafter the draft development plans for Greater Bombay along with the Development Control Rules for Greater Bombay were sanctioned by the Municipal Corporation in the month of July, 1964 and were submitted to the State Govt. for their sanction. The State Govt. in turn sanctioned Development Plan in parts from Dec., 1965 to Jan., 1967 and the last parts of the Development Plan and the Development Control Rules for Greater Bombay were sanctioned by the State Govt. on 7/12/1967 and came into force from 9th February, 1967.

Development Works to conform to the Dev. Control Rules:-

It was interalia laid down in the Development Control Rules that all development work shall conform in the respective provisions made under the Development control Rules. Further if there is any conflict between the requirements of the Development Control Rules and the requirements of bye-laws

in force, the requirements of the Development Control Rules shall prevail.

Development Control Rules to be used in conjunction with Building Regulations and Bye-laws:-

The Development Control Rules framed alongwith the Development plan of Greater Bombay primarily provided for the zoning regulations, open spaces provisions, the regulations to control intensities of developments, the permissible number of tenements in case of residential developments, the parking and loading-unloading requirements, the regulations regarding means of access, layouts/sub-divisions, etc. Though the Development Control Rules for Greater Bombay are very specific and exhaustive in these respects, they are not comprehensive and do not cover many other provisions in the building regulations and bye-laws hitherto in force, namely minimum sizes of rooms, sanitary conveniences, their locations, sizes of staircases, passages, corridors, sizes of the various structural members etc. Consequently the Development Control Rules for Greater Bombay are not sufficient and they are required to be used alongwith the building regulations and bye-laws framed under the provisions of the B.M.C. Act, 1888.

Specific Regulatory provisions under the Development Control Rules:

The Development plan for Greater Bombay as mentioned earlier has allocated the various land uses and the Development Control Rules framed thereunder specifies the different use provisions permissible in the various zones namely, Residential, Residential with shophine prescribed along with the street, commercial and Industrial. It may be added that the shopping concept of Greater Bombay Development Plan differs from that

of Delhi Master Plan in as much as that instead of having centralised shopping at different level starting from convenience shopping to District shopping centre based on Western style, the Indian Shopping habit has been upheld & linear shopping all along selected streets is allowed in Greater Bombay.

In new developments sufficient care is taken to ensure that shopping streets are sufficiently wide to cater to traffic needs. The second important provision under the Development Control Rules different from the earlier building bye-laws is the control imposed on the intensity of development. The different permissible floor space indices in the different use zones in different parts of the metropolis are distinctly specified. In addition to this in case of residential developments in Residential zone, Residential zone with shop-line prescribed along the street as also in commercial zone, the permissible no. of tenements (residential dwelling units) are also distinctly specified to control the density of population more effectively.

The other important distinct provisions under the Development control Rules for Greater Bombay are in respect of open spaces, parking, loading-unloading spaces, means of access, balconies, Rules for layout and Sub-divisions in case of large holdings.

Amendment of the Development Control Rules:-

As pointed out earlier, the development control Rules form a part of the Development plan prepared under the provisions of the Maharashtra Regional & Town Planning Act, 1966 (the earlier Bombay Town Planning Act, 1954) which provides for modification of the Development Plan & consequently the development control

Rules framed thereunder. The need for revision of the rules whether by the administration, the practicing architects, the city Fathers (Municipal Councillors) or the members of public is given due consideration & the rules are modified from time to time. In fact similar to the planning process, it is a continuous process. Only problem is about the delays in effecting such modifications since the procedure laid down for modification of the Development Plan/Development Control Rules under the aforesaid M.R. & T.P. Act, 1966, has to be lengthy in view of the approval of the Municipal Corporation & the State Government involved thereunder.

However even if such modification proposal is lengthy, the rules are modified from time to time after following due procedure laid down under the Act and are not very rigid. In fact when we talk of public participation, in the present day planning processes, this can be partially achieved when such modification proposals are thrown open for discussion & approval in the Corporation i.e. by the elected members representing the citizens. It is open for the members of public to make their suggestions & at times, such a member of public is also given due hearing by the elected corporate body.

Machinery for implementation or exercising the Development Control:-

For controlling the Developments in private sector, the Municipal Corporation have set up a Separate Section known as "Building Proposal Department" working under the overall control of the city Engineer of the Municipal Corporation of Bombay. For this purpose, the Greater Bombay is divided into three zones & for the zones, there are three Deputy City Engineers, who are also in overall charge of all the Engineering matters including Building control. Under the Deputy City Engineers, there are

Executive Engineers meant for exercising the building control alone. They deal with the building permissions in respect of the building proposals submitted by the private & semi-government sectors. The Executive Engineers are further assisted by the Assistant Engineers & their sub-ordinate Sub-engineers.

With the special Building Proposal Branch set up for the appropriate building control, better justice is done to the implementation & building control in Greater Bombay can be held as satisfactory. Of course due to the tremendous housing shortage, Greater Bombay like all other metropolis has also not escaped from eruption slums and more than 2 millions out of total population of 7.3 millions is housed in the slums which have come up regardless of any rules & regulations. Due to enormous residing masses in such hutment colonies and their poor economic conditions as also political pressures, humanitarian considerations do not suggest or permit their ruthless demolition clearance. In fact it is lately realised that their clearance is not the solution to the problem & something else needs to be done. As a via-media such slums are taken up for improvement and bare essential amenities are provided as a temporary measure or poor effort is made to make their environment tolerable.

Nevertheless in case of all other private developments, stricter control is exercised. This applies not only to all-together new developments but also to the additions and/or alterations to the existing structures.

However, after coming into operation of the Bombay Building Repairs & Reconstruction Board the semi-govt. organisation

sometime in the year 1969 for structural up-keep of the old existing dilapidated buildings in the city of Bombay, the picture is slightly changed. With a view to enable the aforesaid B.B.R. & R. Board to rehabilitate, all the displaced persons as also to provide for their essential amenities including recreational open spaces which will be more or less lungs of city system, the Repair Board is allowed to avail of (2 ½) times the permissible floor space index (floor area ratio). It is accepted that it is not easily possible to shift the city population but we can definitely try to improve their environment to make the city more livable. Besides in view of the large financial involvements, the existing buildings are repaired as temporary measures. Obviously much lower standards have been adopted for the existing island city compared to the presently rapidly growing suburbs and extended suburbs. The Repair Board is also now made aware to adopt an integrated approach while considering their proposals in the larger context of the surrounding area as a whole rather than tackling individual building in a piecemeal approach. It is expected that the repairs Board while ensuring safety to the citizen of the island city of Bombay will also have its contribution for improving their environment to make life more livable.

Building proposal branch referred to above is, however, not an executive machinery directly but get their executions realised with the help of the respective administrative ward offices. For this purpose Greater Bombay is divided into 10 (and recently 19) administrative ward offices, which are having

overall direct control over the private developments. The unauthorised constructions including unauthorised additions and alterations are promptly demolished by these ward offices. For co-ordinating the working of the ward offices with that of the building proposal branch, the copies of the so called building permissions alongwith the set of sanctioned plans are invariably forwarded to the concerned ward offices so as to make them aware of the new proposals and those of additions - alternations as also to facilitate their effective control on such developments.

At the time of granting building permit, the architects or the members of public applying for it are not made to run from department to department but if any information or remarks of any of the other sister departments of the Municipal Corporation are needed, the building proposal branch makes reference to such departments to obtain their remarks. The architects are required to obtain the clearances of other Government departments external to the Municipal Corporation only in case of some special proposals such as for cinemas, religions buildings, etc.

The zonal offices of the decentralised Building proposal Branch of the respective zones are situated at zonal headquarters and not at one centralised place in Bombay, so that the building proposals in the various zones are required to be submitted at various zonal offices and are dealt with at the zonal office level. Only in exceptional cases they are referred to the city Engineer, the Deputy Municipal Commissioner (Engineering) and or the municipal commissioner

by the zonal offices. Though the building proposal branch is decentralised and the zonal offices are functioning independently, co-ordination and uniformity in working of the various zonal offices is always achieved by taking common policy decisions in consultation with all concerned in their weekly meetings under the chairmanship of the city Engineer.

The amendments of the Development control Rules referred to earlier are however dealt with by the separate centralised development plan Department Functioning directly under the city Engineer and the Deputy Municipal commissioner (Engineering) and is located in the centralised Municipal Head Office. Since the Deputy City Engineer in charge of this Department is also attending the weekly co-ordination meetings, a constant track of the changing requirements and demands of public is always maintained.

Standardization of the Development control Rules and Building Bye-laws on Par with National Building Code:-

At the present the different local bodies are practising different building rules and regulations and there are no standard practices followed by the different local bodies in Maharashtra.

After coming into operation of the National Building code, the need for standardization of the bldg. bye-laws and the Dev. control Rules for the Maharashtra state as a whole and the five municipal corporations of Greater Bombay, Nagpur, Pune, Kolhapur and Sholapur in particular was keenly felt and a sub-committee of the representatives of the above named five municipal corporations in Maharashtra state was appointed

under the Chairmanship of the Deputy Municipal Commissioner (Engineering) of the Municipal Corporation, of Greater Bombay. The said sub-committee had about five sittings and have by now finalised the Draft Building bye-laws and development control rules for the various Municipal Corporations in the Maharashtra State. When these standardized draft rules and regulations are sanctioned and put into practice, the same are likely to meet the requirements of the public at large in respect of development control.

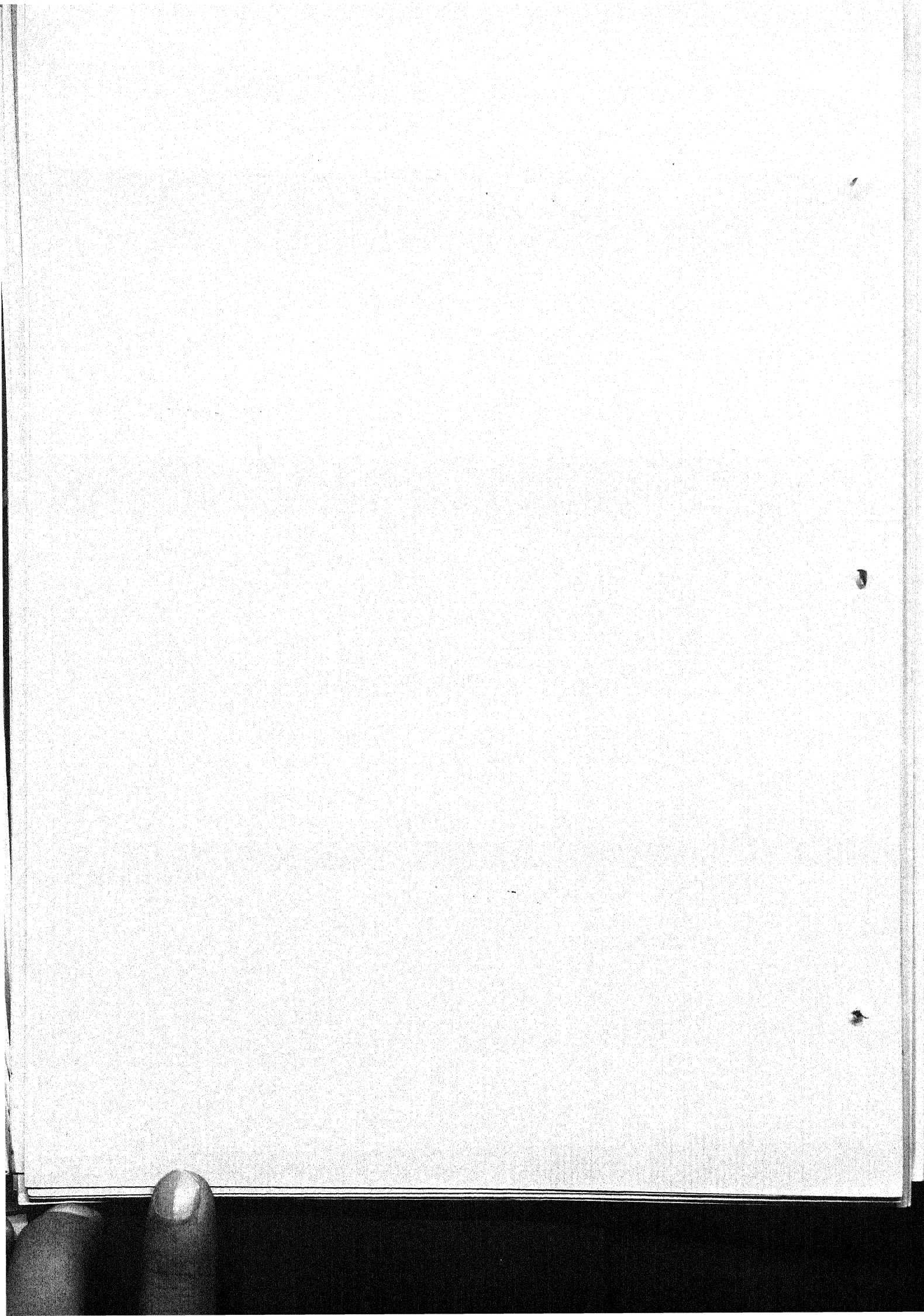
SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'
(MARCH 20-21, 1978)

ENFORCEMENT MACHINERY FOR DEVELOPMENTAL CONTROL

By

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Enforcement Machinery for Developmental Control

By

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The enforcement machinery, so far building activity is concerned, plays most important part in all cities and towns. The sphere of importance has increased manifold due to the setup being followed in our country. In present day's fast developing urbanisation and the democratic setup that we have, the enforcement machinery has virtually failed in their efforts, giving rise to unlimited unauthorised constructions. The unauthorised constructions have resulted in hundreds of unauthorised colonies. It is high time that some solution or method is adopted which could help in systematic development, yet at the same time giving boost and encourage the building activity instead of creating hurdles. It is most astonishing that inspite of tremendous building activity going on unauthorisedly, the back log in housing has multiplied from year to year. It is not intended to prove that the back log is due to faulty enforcement machinery. Of course, there are various other reasons for it and we are happy to note that the Govt. is now more vigilant about it and has expressed its intensions to boost the house construction activity.

In all big cities, including Delhi, there are well laid out Building Bye-laws and Zoning Regulations of which the Architects, Planners and Engineers, particularly those practising in the field are supposed to be aware of. To have one qualified Architect or Planner or an Engineer, the nation has to spend anything about Rs.30,000/- per person. There is no reason why a person available on such a high cost is not made use of by the Society to the maximum extent. The well qualified people practising in the field should be given free opportunity to design and construct a building within framework of Building Bye-laws and Zoning Regulations. Once has is made conscious of the responsibilities and the background, he has in the science of building art and engineering, we are bound to have better results in the form of good, well designed buildings constructed within the framework. This procedure if followed, will result in, i) great saving in enforcement machinery, ii) time spent in obtaining approval from the local authorities, & iii) free hand in utilising artistic talent.

Presently, the plans are submitted to the local body for approval where the scheme has to process through a long pipe line before it is flushed out and reaches back to the applicant. To my personal experience, it can be stated without any reservations that the pipe line has

been streamlined to a great extent, but as we all know, pipe line remains to be a pipe line. If a proper study is made of the expenditure and the time devoted by the talented men power, while the scheme is in the pipe line, one will simply be astonished at it. To add to this, the time and money spent by the applicant would be simply amazing. That is not the end, before the house is completed and occupied, there are many more formalities, like completion certificate and permission to have water connection, sewer connection and to have electricity. It is, however, important to mention here that the problems are not one way only. They are generally found to be both ways i.e. from the side of the applicant as well as the approving authority. To simplify the whole system, could we not, even to say on experimental basis, leave the Architect, builder and the owner to put up their house within the framework of Building Bye-laws and Zoning Regulations. I am sure, in any of the newly developed or developing colonies, the suggested procedure should work more harmoniously and advantageous to both, the builder and the approving authority. In this system, only at the completion stage, the completion plans should be submitted to the approving authority with all relevant plans, elevations, sections, showing service lines etc. together with photographs in duplicate. The building fee has also to be

submitted along with various documents. These documents in the form of the boroscope of the building, are to be maintained by both parties, the owner and the approving authority, to be utilised whenever required in future. Before returning one of the sets of the documents, to the applicant, the approving authority will closely examine the construction done and put a stamp over it. Any construction done beyond the permissible limits or against Zoning Regulations would be liable to demolition and cancellation of the license of the Designer or such other actions, to be worked out in detail.

Let us also discuss, the possible point of view of the approving authority. The very first argument would be that once a building has been constructed, what could be done at the time of completion certificate. The question follows a question that what happens with a builder who has constructed something against the plans approved by the approving authority. The reply to this, is the solution in other case, but I must hasten to add here that once the suggested system is adopted, the chances of violating Bye-laws and Regulations will be reduced to astonishing low level. The class of Architects, Planners or Engineers suggested to practise in the new system, I am sure, will not indulge in violations of the laws with all the background,

only they have the status they enjoy and the consequences on intentional deviations, if any. The fear of difficulty in realising building fee could also be advanced, but as already explained, the building fee will be submitted along with the application for completion certificate and unless one has the completion certificate with him, he will neither get the water connection nor the electricity and house will continue to be uninhabitable.

To introduce new system it would, however, be necessary to make necessary amendments in the Act and the Regulations governing Bye-laws etc. The changes to be affected will have to be done very carefully, keeping in view that number of people presently practicing as Architects, Engineers and Draftsmen may not all fit in suggested procedure. Yet at the same time, it would not be desirable to throw them out of job, i.e. such category of persons who are not fully qualified and may not be considered, so as to be given free scope for designing and constructing, could continue to work in the present framework which would be suitable for unplanned areas and scrutiny of individual plan is necessary at initial stages. This will provide opportunity for all presently practicing persons although not qualified. Such category, should gradually reduce in number and ultimately only well qualified Architects, Planners and

Engineers would be there to serve the Society and practice as Architects/Designers.

Therefore, to start with, as soon as necessary, modifications are introduced in the Act and Bye-laws etc., the well planned colonies will be put under new system while the old areas and the regularised colonies which have come up in unplanned manner will continue to have present system. The subject is now open for discussions.

SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'
(MARCH 20 - 21, 1978)

PROBLEMS OF DEVELOPMENT CONTROLS

by

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PROBLEMS OF DEVELOPMENT CONTROLS

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1. A Town or City can be considered as a large joint family with people of different tastes and attitudes. The attainment of conditions of living with comfort, convenience & safety is the common goal of the family and the primary objective of city planning is to achieve this goal by creating suitable physical environments.
2. The Physical Planner endeavours to provide "A place for everything and to have everything in its place". Even if he succeeds to provide the right amount of land for each use in the right place, which he does in the most democratic way i.e. in consultation with the people, his work will become futile if later decisions are in violation of the pre-determined plans. The achievement of the goal contemplated in the development plans depends to a large extent, upon the determination and zeal with which the people discipline themselves to ensure that the guidelines and directives envisaged in the plans are followed.
3. A plan is implemented both by positive actions viz., execution of schemes and by negative actions viz., preventive and restrictive measures. The process by which

the total implementation of the plan is secured through various agencies is called development control. In other words, it is the control of developments in accordance with the proposals in the plan. The plan is of no use if the proposals in the plan are not put into practice. Wherever space has been reserved for future use, developments in such areas have to be controlled. Considerable saving in public money can be achieved by reserving and keeping clear of development, the routes of future roads and the sites of future important developments. Areas of natural beauty have to be preserved by refusing permission for development. Development controls also include measures to ensure that one building may not create inconvenience to the nearby land and buildings. Although the individual may not be interested in the convenience of his neighbour, the authorities have to safeguard the interests of all citizens. It is true that the purpose of a development plan is to give the greatest possible convenience, comfort and safety to the individual. However, the common interests of the general community should have preference over individual and sectional interests.

4. It is well known that controls in any context are unpleasant and liable to be resisted. If we analyse the real cause, it is not difficult to realise that selfish motives and vested interests are the culprits behind all resistance against

controls, however reasonable and desirable they are. As one who has been in the field of physical planning for over two decades, I have had interesting experiences in the matter of development controls. The pitiable fact is that, in majority of cases the selfish claims of individuals are upheld against the dictates of the plan and the interests of the community. And then it is complained that the plans have failed and that they are useless. This indeed is a paradoxical situation. It is the duty of the Planner and all those connected with planning to face this challenge by educating the people and those who take decisions on behalf of the people.

5. Even the President of the Institute of Town Planners India, the premier body representing almost all Town and Country Planners in the country, recently complained as follows. "A fairly large number of Master Plans have been prepared for many of our cities in the last two decades. Most of these plans have unfortunately been able to achieve little due to a variety of reasons". In other words "The operation was successful, but the patient died". Should we appoint a Commission to fix the responsibility? It may not be necessary, since the reasons are well known. All those involved, including the patient and his bystanders have to share the responsibility. To quote Thomas Sharp, the famous English Planner, "A city has the same right as a human patient to be regarded

as an individual requiring personal attention rather than abstract advice. This means that the City i.e., the people, is a patient and the Planner is the Doctor who treats the patient. Many conditions have to be satisfied for the treatment to be successful. The Doctor should be competent; the tests and investigations should be made carefully and correctly, the medicines should be unadulterated and administered in time at the correct doses; the nursing should be good and above all the patient should co-operate with the Doctor and submit to his directions and instructions. Once recovered, the patient should not repeat the past mistakes and should comply with whatever directions are given for his own happy and healthy life.

6. The success of implementation of any development plan depends not only on the availability of funds but also on the efficiency and effectiveness with which the inevitable controls are enforced without permitting serious departures from the provisions of the plan. The plan is made in consultation with the people and once decided upon, it shall be adhered to in its essential features. Even though delays are likely to occur in the execution of the various schemes envisaged in the plan due to a variety of reasons including paucity of funds, there should not be any slackness in enforcing the development controls.

Absolute conviction in the usefulness of planning and courageous action on the part of the implementing agencies are imperative pre-requisites for the successful implementation of plans. In fact, land use planning is one of the most progressive ideologies and a social movement and hence it should be regarded as a socio-political subject rather than a purely technical discipline.

7. Right from the beginning of the post independence era, we have realised the ill-effects of rapid urbanisation and uncontrolled urban growth. Balanced regional development by the extension of the benefits of economic progress to the less developed parts of the country and diffusion of industrial activities have been accepted as the main objectives of our National Planning exercise. The need to integrate economic planning with physical planning has also been rightfully realised. Seminars and symposia have been conducted and resolutions and recommendations passed and forwarded to the decision making bodies at the highest and lowest levels. The Town Planners have prepared hundreds of development plans, for guiding the future growth of almost all urban communities in the country. It is high time that we make a serious postmortem of our accomplishments and achievements and take decisions on the future courses of action.

SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'
(MARCH 20 - 21, 1978)

ENFORCEMENT MACHINERY FOR THE CONTROL OF
URBAN BUILDING ACTIVITIES

by

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ENFORCEMENT MACHINERY FOR THE CONTROL OF
URBAN BUILDING ACTIVITIES

(with particular reference to Mysore City)

S.D. Syiem
I.A.S. Commissioner
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The phenomenal growth of cities during the present century brought about by industrial and commercial development and heavy migration of population from rural areas has assumed such unhealthy and haphazard proportions that in many cases it is not possible for any planned control regarding the way in which this urban growth is speeding on. Mysore City was one of the first cities in India where the need for control of building activity and development of the City was felt, right from the beginning of the present century. The first City Improvement Trust Board Act in the country, namely, the City of Mysore Improvement Trust Act was enacted as far back as 1903. The preamble to this Act reads: "whereas it is expedient to make provisions for the improvement and future expansion of the city of Mysore, as well as for the appointment of a Board of Trustees with special powers to carry out the aforesaid purpose" the Act has been passed. The main purpose of this Act was the creation of a Board of Trustees called the City Improvement Trust Board to carry out the provisions of the Act with regard to planned expansion and development of the City. No development of the City could take place

without the approval of the Trust Board and the Board itself undertook the laying out of all the future areas where expansion has to take place.

At present there are three legislations which provide for the control of building activities in the City i.e., (1) The Karnataka Municipal Corporations Act, 1976; (2) The Karnataka Town and Country Planning Act, 1961 and (3) The City of Mysore Improvement Act, 1903. Prior to the coming into force of the Karnataka Municipal Corporations Act, 1976, and the Karnataka Town and Country Planning Act, 1961, the City of Mysore Improvement Act, 1903, and the Mysore City Municipalities Act, 1933, were the two legislations under which control of all building activity and development of the city were regulated. No new layout or extension of the city could be formed without the approval of the city improvement Trust Board. Even the formation of new plots in private land within the city must be approved by the Board. There was regulation with regard to the alignment of buildings and set-backs, and the rules pertaining to the architectural style of buildings were particularly insisted upon. The Municipality acted as the authority granting the final building licence, but subject to the technical approval of the Board in such areas where the layout had been formed by the Board. And the enforcement of the conditions and prevention of unauthorised constructions vested with the Municipality.

With the coming into force of the Karnataka Town and Country Planning Act in 1963, more stress was laid on the regulation of planned growth of land use and development. A local Town Planning Authority was constituted and the outline Development Plan for the city was notified in 1972. The Town Planning Authority has as its Chairman the Chairman of the City Improvement Trust Board and the Commissioner of the Municipal Corporation as one of the members. The present Karnataka Municipal Corporation Act also lays down that the exercise of powers by the Corporation shall be in conformity with the provisions of the Karnataka Town and Country Planning Act with regard to any matter relating to land use or development and no permission or sanction shall be granted if it relates to any matter for which the clearance of the Town Planning Authority is necessary. Similarly, all future expansion and layouts of the City Improvement Trust Board shall also be in accordance with the Master Plan prepared by the Town Planning Authority.

However, the City Improvement Act and the Town Planning Act provide for the over-all control and planning of the development of the City, and it is under Municipal Corporations Act that the statutory power to deal with the enforcement for the control of building activities has been vested with the Corporation and its Commissioner. Under

the Corporation Act, Bye-laws are also framed in accordance with set standards of building construction and town planning, for the regulation and restriction of the use of sites and buildings, and for the regulation and restriction of all building activities. No building can be constructed without the prior approval and sanction of the Corporation, which can sanction any construction subject to various conditions which have been laid down in the bye-laws with regard to zoning regulations, set-backs, floor area ratio etc.

The machinery for the control of building activity is the Engineering Department which works under the control of the Commissioner of the Corporation. It is the duty of the Commissioner to ensure that no construction takes place within the City without proper sanction, and wherever there are cases where constructions have been made unauthorisedly, he shall see that proper action is taken to either remove the unauthorised construction or regularise it if the conditions specified are satisfied. In this regard, the Commissioner works through the Engineering Department which is headed by the Corporation Executive Engineer and who has his staff of Assistant Engineers and Junior Engineers working under him.

As stated earlier, the control of building activity

consists of (1) prevention of all unauthorised constructions and (2) the removal of unauthorised construction or their regularisation. Regarding the enforcement of (1), no construction can be carried out without the prior sanction of the Commissioner. By and large, the cases where constructions have taken place without such prior sanction are restricted mainly to instances where squatters have constructed huts or semi-permanent building over-night in a group and which ultimately results in the creation of slums. There are seldom, if at all any cases where permanent buildings are constructed without prior sanction of the Corporation. There may be unauthorised additions or alterations to building which may be carried out by persons without obtaining prior sanction. The cases where a group of huts or semi-permanent houses in a particular area are mostly ones where direct action to remove them cannot always be taken owing to various reasons. In such cases, the persons who are involved are all siteless and houseless persons who are driven by circumstances, and the need to get some shelter over their heads drives them to squat in any open land available and put up dwellings for themselves. These are not cases where there is a deliberate attempt to by-pass the rules and regulations and carry out the unauthorised construction. Moreover, once a group of people come together in this fashion either on their own or led by a person from

outside, it immediately becomes a highly sensitive issue. It immediately reflects on the local city administration and the Government and their inability so far to provide its citizens their very basic needs of protection and shelter, and no administration would be senseless enough to order the removal of such construction right then. The proper approach would normally be to secure proper dwelling sites for them, or undertake suitable housing schemes for them. But this involves time, and if things get prolonged, the unauthorised constructions remain. Hence it is not always possible to tackle this particular problem of urban building activity in the regular course by the enforcement machinery. Because of this, Government and city administrations have now taken up this problem of Slum on a different footing and are now engaged in trying to mitigate the situation. Nevertheless, the problem exists, and in most cases it is such building activities which bring down the standards of the city and gives rise to congestion and unhygienic conditions, social and racial problems, and crime and tension in the city. Hence, so far as this particular problem is concerned, the enforcement machinery laid down for the regulation of building activity comes up against heavy odds and fails to fulfil the role.

The other aspect of the role of the enforcement machinery for the regulation of constructions, namely, to remove any unauthorised constructions, also comes up with

many hurdles at the implementation stage. The reason for this is that once any unauthorised construction has been allowed to come up un-noticed from the beginning, it is very difficult to remove the building after it is completed. Infact the enforcement machinery is equally at fault for not having noticed and prevented the unauthorised construction, as the party who has carried out the construction unauthorisedly. If the unauthorised construction is noticed in the beginning, steps can be taken to get it dismantled or removed. After the building has come up, however, it is not always possible to remove it. Under the law, a preliminary order should be served on the party asking him to remove the unauthorised construction, and after granting a reasonable time for him to show cause why such an order should not be made final, the final order should then be passed. In the event that the party fails to comply with the order, the Commissioner may carry out the demolition and collect the charges from the party under law.

This procedure is also followed in cases where deviations have been carried out by the party which are not in accordance with the sanctioned plan. In fact, the enforcement machinery has to give more attention to such unauthorised deviations which are carried out by the parties at the time of construction. A disallowed top

floor, projections into a public street, projecting the building beyond the existing building line, non-observance of set-backs prescribed, violation of zoning regulations, such deviations in fact often go or not with the knowledge and connivance of the lower staff. It is here that we often run into difficulties in enforcing our rules and regulations strictly.

Such cases are also of two types, namely, minor deviations which can be regularised by leaving a compounding fine by the Commissioner, and major deviations which cannot be compound. However, in many cases, once the order is served on the delinquent party, he proceeds to a civil Court and obtains an interim stay order, and once this has been obtained, justice takes its own time, during which those who are familiar with the pressures at work in local administration know that pressures are brought upon the authorities to compound the case and regularise the construction. There have been several such cases. The avoidance of such cases is by keeping a strict vigil on all such constructions and nip them in the bud. But, practically, this will involve a whole line of staff and would be very time consuming.

The table below gives the total number of building licences issued by the Mysore City Corporation from 1972-73 to 1977-78, the number of deviations made and detected out of these, and the total number of cases of unauthorised

constructions which were carried out without licence. A study of this table reveals that the number of unauthorised constructions carried out without licence is very marginal when compared with the total number of licenced constructions, while the proportion of the number of cases of deviations to the total number of licenced building constructions is very small. The table of course excludes the total number of building constructed by governmental bodies like Public Works Department, Housing Board, City Improvement Trust Board and the City Corporation taken up on a large scale basis. These figures exclude about 800 huts which have been enumerated on the slum clearance programme for the city and which had come up without licence during the course of the last 10 years.

T A B L E

Year	No. of buldg. licences - issued.	No. of deviations made at of (1)	No. of unau- thorised constructions
1972-73	2190	33	44
1973-74	2100	28	23
1974-75	1964	18	16
1975-76	2139	10	47
1976-77	1618	17	88
1977-78 (upto Feb. '78)	1521	24	28

Table showing the number of building licences issued from 1972-73, the number of deviations made out of them, and the number of unauthorised constructions made without licence in Mysore City (Population 4.25 Lakhs)

SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'

(MARCH 20 - 21, 1978)

CONTROL OF URBAN BUILDING ACTIVITIES
IN UTTAR PRADESH

by

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INTRODUCTION

"A basic part of a comprehensive planning programme is the so-called master plan. This plan is based upon an integrated series of studies of every phase of community activity. It shows the desirable location and extent of residence, business and industrial districts, parks and other open spaces, major streets utilities, schools, other public buildings and other elements of city development. In a well conceived master plan each of these elements will be properly balanced and related to all of the others, and will be in scale with the population, economic and financial prospects of the Community. In other words, the master plan provides the general over-all record of the desirable future development of the community. It is not a fixed and static document but is subject to re-study and revision from time to time as is required by changing conditions."¹

Under a properly planned zoning regulation, a local authority may establish zones or districts within which its locations, height and bulk of buildings and other structures, the required size of yards, courts and other open spaces, the density of population and the uses of buildings, structures and land for residences, business, industrial and other purposes. Thus, zoning is the division of a community into districts for the purpose of regulating the use and development of land and buildings. It is an exercise of the police power directed primarily at the use of private property.

A sub-division control regulation regulates the development of open tracts of land, and provides for various kinds of improvements such as water mains, sewers, streets in the area to be sub-divided in accordance with certain specified standards. While zoning deals with the type of building and use of that may take place on the land, sub-division control deals with the manner in which the land is divided and made ready for improvement.

1. The International City Managers' Association, Municipal Public Works Administrations, (Chicago, Institute for Training in Municipal Administration, Fifth Edition, 1957)p.21.

Thus the master plan, zoning regulations and sub-division control regulations are regulatory and inspectional functions discharged by the local body to meet the important needs of the community in the areas of public health, safety, and economic and social well-being. Building regulations also fall into this category. In order to prevent the growth of slums, and check haphazard and unplanned development of urban areas, one of the important powers exercised by local authorities and other urban developmental agencies is the control of urban building activities.

Definition of the Word "Building".

In Kanpur, Allahabad, Varanasi, Agra and Lucknow Municipal Corporation of Uttar Pradesh, the word 'building' is used to mean a house, out-house, stable shed, hut and other enclosure or structure, whether of masonry, bricks, wood, mud, metal or any other material, whether used as a human dwelling or otherwise, and also includes verandahs, fixed platforms, plinths, door-steps, walls including compound walls and fencing and the like. It does not include a tent or other such portable temporary structure.

In the municipal boards in U.P. the definition of the word 'building' is the same as in the case of municipal corporations, with a slight modification that the last word 'structure' has been changed to 'shelter'.

According to the U.P. Regulation of Building Operations Act, 1958, the word 'building' is used to mean any structure or erection or part of a structure or erection which is intended to be used for residential, commercial, industrial or other purposes, whether in actual use or not.

Yet another Act, viz., the U.P. Awas Evam Vikas Parishad Adhiniyam, 1965 (The U.P. Housing and Development Board Act, 1965) gave a much wider connotation to the word 'building'. According to this Act, the word 'building' includes a house, out-house,

stable, shed, hut (other than a hut made of mud appurtenant to or situated in a cultivated field in any area outside the limits of a city, municipality, town area or notified area) or other enclosure or structure whether of masonry, bricks, wood, mud, metal or any other material whatsoever, and includes any verandah, platform, plinth, staircase, doorstep or well, including the compound wall other than a boundary wall of a garden or agricultural land not appurtenant to a house. However, it does not include a tent or other such portable temporary shelter.

In the Uttar Pradesh Urban Planning and Development Act, 1974 the word 'building' includes any structure or erection or part of a structure or erection which is intended to be used for residential industrial, commercial or other purposes, whether in actual use or not. The Act also defines building operations to include re-building operations, structural alterations of or additions to building and other operations normally undertaken in connection with the construction of buildings.

Thus, it is apparent that various enactments defined the term 'building' differently and there is no uniformity relating to the definition of the word.

CONTROL OF BUILDING ACTIVITY IN URBAN AREAS IN U.P.

The control of building activities in urban areas is achieved by issuing building permits before the construction begins, by making necessary on the spot inspections and issuing a completion certificate before the building is occupied. By applying for a building construction, a person is requesting the local authority to permit him to build a building according to the regulations laid down by the local body. In Uttar Pradesh, construction of buildings in the urban areas is controlled according to the

following enactments:-

- (i) The Uttar Pradesh Municipalities Act, 1916, Under this Act the municipal boards are empowered to regulate building activities in their respective local bodies.
- (ii) The Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959, which empowers the municipal corporations in KAVAL towns to regulate the building construction activity.
- (iii) The Uttar Pradesh Regulation of Building Operations Act, 1958, which was enacted to provide for the regulation, of building operations with a view to prevent haphazard development of urban and rural areas.
- (iv) The Uttar Pradesh Urban Planning and Development Act, 1973, which was passed realising the need to locate the problem of town planning and urban development.
- (v) The Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam 1965 (The U.P. Housing and Development Board Act, 1965).
- (vi) The Uttar Pradesh Roadside Land Control Act, 1945, which deals with the control of urban development.

A detailed examination of the above Acts is as under:-

(i) U.P. Municipalities Act, 1916

In the urban areas, which are not declared as regulated areas, it is the municipal board which administers the building regulations. According to the U.P. Municipalities Act, 1916, every person intending to 'erect a new building or new part of a building, to re-erect, or make a material alteration in a building, or to make or enlarge a well should give notice of his intension to the municipal board. Under the Act, the power to make bye-law regarding the building regulation has been delegated to the municipal boards. The notice is compulsory in cases where the building abuts on, or is adjacent to, a public street or property vested in Government, or the board,' Further the municipal Board may extend the necessity of giving notice to all buildings by a bye-law applicable to the area in which the building is situated. The notice should be in form and manner, containing the necessary particulars and plans as are prescribed in the bye-laws of the

board. In cases where no bye-laws were made by municipal boards, the board may require a person to furnish a plan and specification along with a site plan of the land, with such details as it may consider necessary, within one week of the receipt of the notice. Unless the details asked for are supplied the notice will not be considered valid. The notice along with the plan is an important document in the possession of the local body. The building regulations will have to be very clear in the requirements for plans, specification, drawings and other data which are to be suggested along the notice. Thus the information supplied along with the application, forms part of the notice, and if the person who is constructing the building deviates from the original plan, he could be prosecuted.

The board is empowered either to sanction the plan with or without modifications. In the case of a refusal to sanction, the board is required to intimate the person concerned in writing the reasons for refusal. The Act also provides for sanction by default. For whatever reason, if the board keeps silent for one month after the receipt of the notice, then the person concerned may by a written communication call the attention of the board to the omission or neglect, and if the board still keeps silent for a further period of fifteen days, the board is deemed to have sanctioned the proposed work absolutely. In case the sanction is obtained through fraud or mis-representation the board may within six months cancel or modify the sanction granted by it.

In order to avoid nuisance in the areas which are densely populated, where educational or medical institutions are located or where an orphanage having more than one hundred inmates is situated or in any area preserved for residential purposes by any housing or planning scheme, a municipal board cannot sanction construction or addition to any place of public entertainment without the previous approval of the State Government

Approval of a building plan by the municipal board will be valid for one year or for such lesser period as may be prescribed by the bye-law. However, the board can extend the time limit for a further period of one year.

In order to ensure that the construction of the building is not contravening the sanctioned plan, the Act empowers the President, Executive officer or any other member of officer with specific authorisation by the board to inspect the works at any time and without warning either while under construction or within one month of the receipt of the completion report and in the absence of such report, at any time after completion.

In case of illegal erection or alteration of a building, the board is empowered to prosecute the person and if convicted he is liable to a maximum fine of Rs. 1,000 and a minimum fine of Rs. 250/-. Further the board is empowered to stop erection and to demolish building erected at any time by written notice if it is illegal.

(ii) U.P. Nagar Mahapalika Adhiniyam, 1959

In the case of municipal corporations, the above mentioned provisions, more or less, were included in the U.P. Nagar Mahapalika Adhiniyam, 1959 with minor modification. But after the declaration of KAVAI towns as regulated areas under the U.P. Regulations of Building Operations Act, 1958, the powers of the corporations regarding the building regulations were completely withdrawn. Thus in U.P., wherever the Regulation of Building Operations Act, 1958 operates the power of the local body relating to the building regulations stand repealed. Now these powers have been taken over by the Development Authorities.

(iii) U.P. Regulation of Building Operations Act, 1958

The U.P. Regulation of Building Operations Act, 1958 was enacted with the following objects and reasons:

"It has been observed that there is a tendency of haphazard building construction round about growing towns and ultimately such constructions with no proper means of drainage, water supply communication and no proper

sanitation affect adversely the town besides being themselves a source of anxiety to the authorities concerned Under the present law, building activity is regulated only within municipalities and notified areas but there is no power to regulate such activity outside urban areas. It appears necessary to take such power through legislation, so that if in any area it appears desirable that building activity be regulated to check the aforesaid tendency and for furthering the industrial development of the State the provisions of the enactment may be extended to it."

Under this Act, the State Government is empowered to declare any area to be regulated with a view to the prevention of bad laying out of land, haphazard erection of buildings or growth of sub-standard colonies or with a view to the development and expansion of that area according to proper planning it may declare the area to be regulated area.

When once an area is declared as a regulated area, the Government is required to constitute Controlling Authority for the area. Usually the Commissioner of the Division or an officer not below the rank of Sub-divisional Magistrate appointed by the Government will be the Chairman. Other members to be nominated by the State Government **include the President** of the Zila Parishad, in which the regulated area or any part thereof is situated, the President of the Municipality or Notified Area, if any, in which regulated area is situated or which is adjacent to it. If the regulated area covers more than one local body, the Controlling Authority may co-opt Presidents of those local bodies as members. Apart from this, one to two other persons may also be co-opted.

The Act also provides for the appointment of a person or body of persons as 'Prescribed Authority' in respect of the regulated area.

The Act vests power in the State Government to get the master plan prepared either through the Controlling Authority or any other agency for the regulated area. It should be revised at the end of every ten years or may be revised earliest if the State Government considers it necessary.

The Act prohibits a person to carry out the development of any side in any regulated area of any building or make or extent any excavation or lay-out any means of access to a road in such area except in accordance with the regulations issued under the Act and with the previous permission of the Prescribed Authority in writing.

A person who wants to get permission should make an application in writing to the Prescribed Authority in the prescribed form giving the necessary information as may be prescribed. On receipt of the application, the Prescribed Authority may grant, with or without conditions, or refuse permission.

The Act also lays down the conditions under which the Prescribed Authority may refuse permission. The Prescribed Authority has been empowered to impose certain conditions while granting the permission to develop an area of land as a colony. In case permission is refused, the grounds of such refusal should be communicated to the person concerned within 90 days of the receipt of the application. If no decision is conveyed to the person concerned within the prescribed time limit, the applicant may by a written communication call the attention of the Prescribed Authority to the omission or neglect, and even if no action is taken by the latter, within 30 days, the permission to the proposed work is considered to have been granted. The Act empowers the Prescribed Authority to enter into or upon any site or building for inspection and examination of the work.

The penalties imposed under this Act are much more stringent than the Municipalities Act, 1916. For contravening the provisions of the Act, a person is punishable with a fine which may extend to Rs. 10,000. If the offence is a continuing one, a further fine which may extend to Rs. 500/- for every day may be imposed during the period such offence continues. Further, the Act empowers the Prescribed Authority to direct demolition of an unauthorised construction in addition to any prosecution that may be instituted after giving opportunity of being heard. The demolition may be done by the owner himself within such period not exceeding two months or as may be specified in the order. If the owner fails to comply with the order, the Prescribed Authority, either by itself or through local authority or any other agency, may demolish the unauthorised construction.

The Act lays down that no court inferior to that of a magistrate of the first class should try an offence punishable under this Act. The order refusing permission is final and cannot be questioned in any court of law. An aggrieved person is free to appeal to the Controlling Authority within 30 days on the orders of the Prescribed Authority whose decision is final and cannot be called in question in any court. The Controlling Authority is empowered to stay the operation of the order appealed against.

Under the Act, the State Government may, at any time either of its own motion or on an application made to it, call for the record of any case disposed of by the Controlling Authority for the purpose of satisfying itself as to the legality or propriety of any order passed or may pass such order as it considers fit. Further the State Government is empowered to frame rules and regulations.

Till the end of 1977, this Act has been enforced in 29 cities and towns of Uttar Pradesh. In the KANAL towns, the Administrator, Municipal Corporation, has been declared as the Prescribed Authority, whereas in other towns, either the Sub-Divisional Magistrate or Additional District Magistrate have been declared as Prescribed Authorities. As mentioned earlier, in all these local bodies where this Act has been enforced, the powers of the municipal corporation/ municipal boards relating to the regulation or control of building operations remain suspended. The Prescribed Authority have their own machinery to operate under this Act.

(iv) Uttar Pradesh Planning and Development Act, 1973:

The Uttar Pradesh Urban Planning and Development Act, 1973 was enacted to provide for the development of certain areas of Uttar Pradesh according to plan and for matters ancillary thereto. This Act empowers the State Government to declare any area

which it feels to be developed according to a plan as development area. In the development area, an Authority called the development Authority may be constituted by the Government with the following membership:-

- (i) a chairman to be nominated by the State Government
- (ii) a vice-chairman
- (iii) Secretary, Department of Housing
- (iv) Secretary, Department of Finance
- (v) Chief Town & Country Planner.
- (vi) Managing Director, U.P. Jal Nigam
- (vii) District Magistrate of the district in which the development area is situated.
- (viii) four members of the Corporations to be elected from among the corporators.
- (ix) such other members not exceeding three as may be nominated by the State Government.

The vice-chairman will be a full-time appointee.

The Act also provides for the constitution of an Advisory Council for the purpose of advising the Authority on the preparation of the master plan and on such matters relating to the planning of development.

The object of the Development Authority is to promote and secure the development of the development area according to plan. In order to achieve this objective, the Authority is empowered to prepare a master plan defining the zones into which the development area is to be divided for the purpose of development, indicate the land uses and to serve as a basic pattern of framework within which the zonal development plans of the various zones may be prepared. Along with the Master Plan, the Authority is required to prepare for each of the zones, the zonal development plan indicating the site-plan, use-plan for the zonal development showing the approximate locations and extend of land uses for housing, recreation, public building, industry, business etc. The zonal plans should indicate apart from other things, the division of any site into plots for the erection of buildings, the erection of buildings on any site and the restrictions and conditions in regard to the open spaces to be maintained in and around buildings and height and character of buildings, the architectural features of buildings of any site etc.

After the preparation of master and zonal development plans, they should be submitted to the State Government for approval which is empowered to approve them with or without modifications. After the Government's approval, the Authority should notify the date of commencement of the plan.

One important provision in the Act is that the Authority may require an occupier to repair, white-wash, colour-wash or paint the facade of the buildings abutting the arterial roads at his own cost. In case the owner fails to do, the Authority may itself carry out the work and recover the cost from the occupier.

When once an area is declared as development area, the development of land should be undertaken without getting the written permission from the Vice-Chairman and in accordance with the master and zonal development plans. To obtain permission, a written application had to be made to the Vice-chairman giving necessary details and particulars. The Vice-chairman may grant with or without conditions. In case where permission is refused, party concerned should be given an opportunity to present his case and the grounds of refusal should be intimated to the applicant. The aggrieved party has a right of appeal to the Chairman within 30 days after receiving communication inting refusal from the Vice-chairman. After the enforcement of the master plan, use of land and buildings in contravention of plans is prohibited.

The penalties provided for infringement of the provisions of the Act are the same as under the Regulation of Building Operations Act. The Authority also has power to issue directions for the demolition of unauthorised construction. The final authority in this respect is the Chairman and his decision cannot be questioned in any court of law.

(v) Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965.

The U.P. Avas Evam Vikas Parishad Adhiniyam, 1965 (The U.P. Housing and Development Board Act, 1965) was enacted to provide for the establishment, incorporation and functioning of a housing and development board in Uttar Pradesh. The Act provides for

the constitution of a Board by the State Government called the Uttar Pradesh Avas Evam Vikas Parishad with a Chairman, who should normally be a non-official and other official and non-official members. In order to enlist the cooperation of the local bodies where the Housing Board undertakes various schemes, the Act provides for the constitution of Avas Samitis consisting of a Chairman who in the case of the corporations, the Mayor, in the case of Municipal Board, the President and in the case of any other area, the President or Chairman of any local authority having jurisdiction in that area, to be appointed by the State Government and such other members. One of the important functions of the Board is to frame and execute housing and improvement schemes and other projects and to regulate building operations. This power of regulating the building operation extends to the private construction undertaken by individual within the Housing Board Colonies. The Act prohibits any person to erect, re-erect, add to or alter any building so as to make it project into the defined alignments of the street except with the previous permission of the Board, in cases where the Board has announced a defined street scheme. Where the Board frames a Prasar Yojana (Expansion Scheme) in order to control and to provide for the future expansion or development of any urban area, no person should erect, re-erect, add to or alter any building within the area included in the scheme without previous permission of the Board. In cases where a slum improvement and clearance scheme is published, no person should erect, re-erect, add to, alter any building or otherwise develop any land in the area except in accordance with the scheme and with the previous permission of Housing Commissioner who is empowered to impose any condition or restriction as he considers fit while giving sanction.

The Act provides for the same penalties for building in contravention of schemes as in the Regulation of Building Operation Act and the Housing Commissioner is empowered to direct the removal of unauthorised erections.

On the day on which this Act comes into effect in any area, the operation of the Regulation of Building Operations Act, 1958, the powers of building regulations under the Corporations and Municipalities Acts will remain suspended in respect of any area in which Referred Street Scheme, Expansion Scheme or Slum Improvement and Clearance Scheme remain suspended for the duration of the scheme.

(vi) Uttar Pradesh Roadside
Control Act, 1945.

Yet another act which is little known, but applied extensively throughout the State is the U.P. Roadside Land Control Act, 1945. This Act is intended to deal with the problem of ribbon development which is becoming more serious day by day. One of the Objects and reasons for the Act is that there is a growing tendency to extend building along roads around towns with the consequence that congestion on such roads is becoming acute. Roads intended to enable through traffic to by-pass centres of dense population themselves become too over-crowded. Extra municipal areas adjoining main roads have obvious attraction as building sites. The occupants of buildings in such areas can enjoy many of the amenities of town life without sharing the burden of municipal taxation or being subject to the control required to ensure good sanitation and well-ordered development.

Under this Act, the State Government is empowered to declare any land within a distance of four hundred and forty yards from the centre line of any road to be a controlled area. Any person intending to erect or re-erect any building or make or extend any excavation, or lay out any means of access to a road in the controlled area will have to take the previous written permission of the Collector. In case permission is refused by the Collector, appeal lies to the State Government whose decision is final.

CONCLUSION

Thus, it is evident from the foregoing pages that there are different Acts in Uttar Pradesh for controlling the building

activities. Each Act provides for a different agency to administer the building regulations. First Building Regulation which has been considered as traditional function of municipal local bodies continue to be with them in those local bodies where the.

Regulation of Building Operations Act, 1958 has not been made operative. When once the latter Act comes into force in any urban local body, the building regulation powers are withdrawn from the local body and transferred to the Prescribed Authority to be nominated by the State Government. Except in the Municipal Corporations, in the rest of 24 urban local bodies where the Act has been made operative till the end of 1977, it is either the Sub-Division Magistrate or Additional District Magistrate who has been nominated as the Prescribed Authority by the State Government. They enforce the building regulations through their own machinery. To this extent, the urban local body loses its regulatory powers which is a fruitful source of friction between the local body and the Prescribed Authority.

The situation has been further complicated with the enactment of the U.P. Urban Planning and Development Act, 1973. This Act provided for the statutory Development authorities to be set up by the Government to prepare, supervise and implement the Master plans. In the first instance Development Authorities were set up in KAVAL Corporations in 1974. Since then seven more Development Authorities were set up in different urban areas in the State. When once the Authority is set up in a city or town, the Regulation of Building Operations ceases to operate and the Vice-Chairman of the Development Authority takes over the control of building activities in that town or city according to the provisions of the master plan. The Development Authorities are required to frame regulations and bye-laws. Since none of the Development Authorities have done this so far, they have adopted the same regulations and bye-laws prepared under the Regulation of Building Operations Act. Within any urban area, the Board Colonies stand on a different footing. The plans for the colony are sanctioned by the State Government on the techni-

cal advice of the Town and Country Planning organisation. Within the colonies, private building constructions are controlled by the Housing Board, either the local body or the Development Authority has no control. The control of 'ribbon development' is exercised by the Collector through the machinery of the Public Works Department of the State Government.

The control of urban building activities in urban areas which are working under the Regulation of Building Operation Act or Urban Planning and Development Act is reasonably effective when compared to other local bodies because the former agencies have competent staff. But the real difficulty arises in the case of medium and small local bodies. They do not have necessary expertise to draw up the bye-laws. Hence they adopt the model bye-laws prepared by the State Government with or without modification. Those local bodies which have their own bye-laws, they have become obsolete.

Since municipal limits are confined usually to built-up areas, the possibility of the municipal boards controlling the building activities outside their limits presented a problem. This coupled with inadequately qualified staff worsened the situation further. All this led to the creation of different agencies under various enactments to control the building activities. This raises an important question whether it is desirable and necessary to overlook the established local institutions in favour of special purpose ad hoc authorities. In order to answer this issue an in-depth and objective analysis of the effectiveness and efficiency or otherwise of the working of these special purpose authorities to check the haphazard and unplanned growth of urban areas is a sine qua non.

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'Yadav'

SEMINAR ON 'CONTROL OF URBAN BUILDING ACTIVITIES'
(March 20-21, 1978)

CONTROL ON URBAN BUILDING ACTIVITIES
By

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(A) The Scale and Pace of Urbanisation:

Urbanisation is not a new phenomena but this physical transformation has been taking place for decades. In the context of multifarious problems faced by any country, the question is of priorities to be assigned to a problem at a particular time. Urbanisation has been defined as a process of becoming urban, moving to cities, changing from agriculture to other pursuits common to the cities. While on one hand, process of urbanisation is not only desirable but essential for generating economic growth and social changes in a developing country yet on the other hand it generates a series of administrative, social, economic and physical problems. The table I below gives a picture of the scale and pace of urbanisation in the developing countries i.e. the picture to-day and a look toward the year 2000.

Table I.

Urban Rural Population Developing Countries:

	<u>1920</u>	<u>1940</u>	<u>1960</u>	<u>1980 (Projected)</u>	<u>2000</u>
Urban (2000 to	69 (6%)	128 (9%)	310 (15%)	693 (22)	(Projected)
Population in					1436 (31%)
Millions.					
Rural	1118 (94%)	1346 (91%)	1705 (85%)	2431 (78%)	3235 (69%)
Population in					
Millions.					

From the above statistics, it will be seen that the population in Urban areas, in developing countries has increased from 6% to nearly 20% and is likely to increase to 31% in the next 22 years. The population of rural areas is correspondingly dwindling. The trend of urbanisation in India is indicated in the table II given below:

Table II - Urban population trends in India:

Year.	Total population in Millions.	Urban population in Millions.	Urban as percentage of total.
1901	238.4	25.8	10.8
1911	252.1	25.9	10.3
1921	251.3	28.1	11.2
1931	279.0	33.5	12.0
1941	318.7	44.2	13.9
1951	361.1	62.9	17.3
1961	439.2	78.9	18.0
1971	547.8	109.1	19.9

The national growth rate of population of India is about 2.4% whereas the rate of increase of population in case of urban areas in India is 3.8%. The rate of increase of population of Delhi, however, is much more than the National average as will be apparent from table III below.

The rate of increase of population of Delhi for a few years has been of an order of about 6%.

Table III.

<u>Year</u>	<u>Population</u>
1901	405,819
1911	413,851
1921	488,452
1931	636,246
1941	917,929
1951	1,744,072
1961	2,658,612
1971	4,065,698

(B) Housing Requirements:

At the time of formation of Master Plan in 1962, the population of Delhi by 1981 was assessed to be 45 lacs. There were about 25 lacs existing dwelling units and it was assessed that 7.5 lacs additional dwelling units will be needed. The present population of Delhi is more than 56 lacs and is likely to be about 60 lacs by 1981 against the assessment of 45 lacs as per Master Plan. The requirements of dwelling units will, as such, be 10.5 lacs against 7.5 lacs assessed originally.

The Government of India had constituted the Delhi Development Authority under the Delhi Development Act 1957. This Authority is primarily responsible to develop land for plots and to construct houses to meet the needs of the city. The achievements so far have been as under:-

i)	General residential plots.	50,000
ii)	Allotment Co-Societies.	35,000
iii)	Plots built under various categories.	32,000
iv)	Slum tenements.	14,000
v)	J.J. Tenements.	5,000
		<hr/>
		1,36,000
		<hr/>

In addition, 2 lacs plots have been provided under the J.J. Removal scheme and in the re-settlement colonies which have been recently developed. From the achievements, it does not appear probable that in the near future, it will be possible to provide the dwelling units/houses to meet the requirements.

(c) Unauthorised Constructions:

In Delhi, the Delhi Development Authority is responsible for the control of building activity in areas declared as development areas under Section 12 of the Delhi Development Act 1957. In respect of areas not declared as 'Development Areas', the building activity is controlled by the Municipal

Corporation of Delhi. The Municipal Corporation of Delhi under Section 507 B(1) had exempted the rural villages within the Lal dora limits from the provisions of Section 533 (1) and 334(1) of the D.M.C. Act in respect of residential houses and shops etc.

The Municipal Corporation has nearly one lac cases of unauthorised construction under action. The unauthorised construction keep going on at the rate of nearly 25 unauthorised constructions every day. The reasons for this large scale illegal activity are quite apparent from the statistics which have been provided as regards the increase of population of the city and the slow rate at which the housing stock is being added. These are also being deliberated upon in this seminar.

(D) Enforcement:

One might feel that the Municipal Corporation of Delhi must have been armed with adequate legal provisions to check this illegal activity. Under the provisions of Section 344 D.M.C. Act 1957, the Commissioner has been empowered to require the person at whose instance, the building or the work has been commenced or is being carried on to stop it forthwith. If this order is not complied with, the Commissioner may require any police Officer to remove such person and assistance and workman from the premises within such time

as may be specified in the requisition and such Police Officer, the law goes on to say, "shall comply with the requisition accordingly". The law also provides for the deputing of Police Officer or a Municipal Officer or other Municipal employee to watch the premises in order to ensure that the erection of the building or the execution of the work is not continued. Under Section 343, a direction can be given to the builder to stop the construction and also the unauthorised building can be ordered to be demolished by the builder himself and on his failure to comply with this order, the demolition can be carried out by the Commissioner. The jurisdiction for appeal against the order only lies with the Court of District Judge and other courts have been barred from entertaining appeals against the demolition order. However, the experience has been that stay orders are received from the various Courts under different other provisions of the law and the Commissioner is restrained from taking demolition actions. The Police has its own administrative difficulties and it has not been possible to depute police generally for checking the unauthorised constructions. The demolition operations are met with serious resistance from the public as well as the public representatives. A demolition operation which could be carried out earlier by Junior Engineer alongwith about 8-10 demolition workers and 8-10 Police personnel, has now to be

planned to be carried out under the supervision of the Magistracy, senior police officers and senior officers of the Municipal Corporation. On top of it, there is lot of resistance to such operations.

The existing provisions of the law are being considered for amendment and under-mentioned suggestions are being made:

- i) Carrying out of unauthorised construction should be made cognisable offence.
- ii) Powers may be vested at certain level of the officers who may pass summary orders for demolition instead of following the legal procedure as has been laid down under Section 343 of the D.M.C. Act.
- iii) Erection of building without the sanction should not only attract the penalty of fine but should also attract penalties like imprisonment.

(E) Suggestions:

- i) The prime consideration for migration of rural population to the urban areas is the employment potential of these urban centres. The present Government is contemplating to lay more emphasis on development of rural areas, creating employment opportunities in the rural areas. These policies are still on the anvil and it is too early to feel the impact of these policies.

- ii) In view of the limited land resources of Delhi, it is absolutely necessary that intensive use of the existing land resources should be made. The present provisions of the Master Plan as well as the Building Bye-laws in respect of the number of storeys permissible and the coverages permissible need to be reviewed. The Municipal Corporation has already set up a Committee known as Ad hoc (Amendment to Master Plan & Building Bye-laws) Committee and this committee is looking into this aspect at present.
- iii) Suitable amendments may be made to the Municipal enactments to see that laws are swift and sufficiently punitive with a view to have effective building and development control in urban areas.
- iv) The pace of development of the Town extension schemes should be made much faster so that additional housing sites and additional plots are made available to the public. These plots should be available at a cost within the means of the citizens.